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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

✓
O.A/T.A No. 222/96.....

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SECTION OFFICER (Judl.)

CA No. 222, 96

Sri F.K. Laskon & ors. Applicant(s)

VS-

Union of India & ors. Respondent(s)

Mr. B.K. Sharma, B. Mehta, S. Sarma, Advocates for the applicant(s)

Mr. A.K. Choudhury, A.C.S.C. Advocates for the Respondent(s)

Office Notes | Date | Courts' Orders

This application is in form and within time C. F. of Rs. 50/- deposited vide IPO No 444483 Dated ... 3.10.96

B.K. Sharma
By Registrar 3/10/96
3/10

4.10.96

Mr. B.K.Sharma for the applicants.

Mr. A.K.Choudhury, Addl. C.G.S.C. for the respondents.

Permission ^{under} on the Rule 4 (5)(a) of the Central Administrative Tribunal Procedure rules 1987 is granted as prayed for.

Heard Mr. Sharma for admission and perused the contents of the application and reliefs sought.

Application is admitted. Written statement within six weeks.

List for written statement and further order on 15.11.96.

Heard counsel of the parties on the interim relief prayer. Respondents are directed not to discontinue the service of the applicants with ^{out} permission of this Tribunal.

B.K.
Member

8.10.96

Copy of order dtd 4.10.96 issued to the concerned parties vide D.No

trd

m
9/11

15.11.96

Mr S.Ali, Sr.C.G.S.C prays for time to submit written statement. Allowed.

List for written statement and further orders on 13.12.96.

B.K.
Member

Bev
1) Service reports are still awaited of submit his net for 15th
14.11.96
Notice issued to the concerned parties vide D.No. 3726 Dt. 14.11.96.

1) Service Reports are still awaited.
2) W/statement - has not been filed.
12/12

13.12.96 Mr B.K.Sharma for the applicant.
Mr S.Ali, Sr.C.G.S.C seeks for four weeks time to file written statement.
List for written statement and further orders on 9.1.97.

Member

pg
16/12

1) Service Reports are still awaited.
2) W/statement - has not been filed.
8/97

18.12.96 Vide order passed today in M.P. 223/96 the interim order dated 4.10.96 has been modified.

Member

pg

9-1-97

1) Service Reports are still awaited.
2) W/statement - has not been filed.
3/12

Learned counsel Mr.S.Sarma for the applicant. Sr.C.G.S.C. Mr.S.Ali prays for one month time to submit written statement.

List for written statement and further orders on 4-2-97.

Member

pg
9/11

4.2.97

Mr B.K. Sharma, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C., are present. The respondents have filed written statement.

List it for hearing on 1.4.97.

Member

Vice-Chairman

10-2-97

W/S filed on 11/12 of Respondts.

nk m
6/12

3


O.A. 222 of 1996

3

10.3.97

Let the case be listed on 21.4.1997 for hearing.


Member


Vice-Chairman

trd
for
12/9

17.4.97

Ready for hearing

21.4.97

Let the case be listed for hearing on 2.6.97.


Member


Vice-Chairman

pg
for
22/4

The respondents have filed an affidavit in support of their Petition No.94/97 stating that the scheme has since been notified and it is likely to be notified. The above Mr. D.K. Sharma, appearing on behalf of the respondents unless the scheme is notified, come to know about the scheme it will be difficult for us and also Mr. Sharma prays for time until the scheme is notified. Mr. M.K. Gupta, J.C.G.S.C. submits that the scheme will be notified very soon, may be within a few weeks. Mr. S. Tiwari, learned J.C. and Mr. M.K. Gupta, learned J.C. also agreed that the matter should be heard after the publication of the scheme.

concl/-

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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 he comes to know about the scheme it will be difficult for ^{him} and for that purpose Mr.Sharma prays for time till the scheme is notified. Mr.M.K.Gupta learned Addl.C.G.S.C submits that the scheme will be notified very soon, may be within three weeks. 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 adjourn the case till 7-7-97.


Member

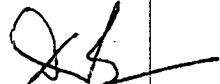

Vice-Chairman

pg
3/8

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

Central Administrative Tribunal
 GUWAHATI BENCH
 3 OCT 1996
 (An application under Sec 13 of the Administrative Tribunal Act, 1985)

b

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH
 (An application under Sec 13 of the Administrative Tribunal Act, 1985)

Title of the Case :- O.A. No. 222 of 1996.

Shri F. K. LASKAR. & ORS.Applicants

-VS-

Union of India & OrsRespondents

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5.	Annexure -3	19. to 22.
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Copy furnished
 Mr. A. K. Choudhury
 Asst C. & S.
 Section Secy
 Pan

For use in Tribunal's Office

Date of filing :-

Registration :-

Signature.

Registrar.

Filed by
S. D. Deka
Saran
Advocate
3-10-96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 222 /96

BETWEEN

- 1) Firoze Khan Laskar
- 2) Pradip Kr. Dey
- 3) N.S. Pator
- 4) Subendu Barman
- 5) Md. Abdus Samad Barbhuyan
- 6) Birju Joy Das
- 7) Krishna Kn. Roy
- 8) Hari Narayan Nunia
- 9) Sushil Ch. Das
- 10) Ram Ch. Choudhury
- 11) Shymal Kanti Das

...

All are working under the Central Water Commission, Barak Sub-Division under C.W.C. W.R. & Flood Forecasting Division, Pub Sarania Gauhati-3 and their respective place of posting are as indicated in Annexure-1. to this O.A.

.....Applicants

AND

- 1) Union of India, represented by the Secretary to the Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.

.....2/-

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

3) The Executive Engineer,
C.W.C. W.R. & Flood Forecasting Division-II,
Pub- Sarania Gauhati-3.

.....Respondents

DETAILS OF APPLICATIONS

1) PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION
HAS BEEN MADE

The instant application is not made against any particular order but has been made seeking relief towards regularisation of their services. Presently, they are working under the respondents on casual basis and as per the scheme prevalent, they are entitled to be granted with temporary status with ^{further} regularisation of their services.

2) 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.

3) LIMITATION:

The applicants further declare that the application is within the limitation period prescribed under

.....3/-

Section 21 of the Administrative Tribunal Act, 1985.

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 the laws framed thereunder.

4.2 That the applicants have filed the instant application for redressal of their grievances towards non-regularisation of their services as Group '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 they are holders of Group 'D' post on casual emp~~le~~ basis and accordingly ~~and accordingly~~ crave leave of this Hon'ble Tribunal to allow them to join together in a single application invoking the power under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) ~~rules~~ rules, 1987,

4.3 That the applicants are all similiary situated, their grievances ~~are~~ ^{pertaining} ~~pertain~~ to their services under the respondents. All the applicnats have been working under the respondents on casual basis for the last several years without any hope of reg-ularisation of their services. They have not been granted temporary status under the Scheme formulated by the Govt. of India. The services~~;~~ particulars of the applicants are reflected in ANNEXURE '1' to the instant O.A. In the said Annexure, the applicants have given their services~~;~~ particulars in details and crave leave of the Hon'ble Tribunal to refer to the same in support of their contention made in this application instead of repeating

the said contentions.

4.4 That the applicants state that as is reflected in Annexure '1' Statement annexed to this O.A., they ~~were~~ have been working under the respondents since 1985, 1985, 1988, 1985, 1985, 1985, 1990, ~~1985~~, 1986, 1988, 1992 and 1986 respectively. They were so appointed in Group 'D' employment on casual basis after their names were sponsored through Employment Exchange and they were selected for the post of work-charged casual khalasi. Their appointments are continuing from year to year and each year they are issued with appointment letters under which they are to work in Group 'D' posts as work charged ~~casual~~ seasonal khalasi in the definite scale of pay. Presently, they are given pay scale of Rs 750/- 940/- which is the prescribed pay scale of Group 'D' employees. However, their services are terminated and / or they are kept in employment for a definite period and therefore, they are no longer engaged for the rest of the period in the year. Again in the next year, they appointed for a further period. Thus, this process is going on since the time of their appointments and in spite of the fact that the Govt. of India has formulated a policy decision for grant of temporary status to the casual employees with the consequences of regularisation ^{and} in the process, the applicants are still deprived of the same benefit.

.....5/-

Their services are rather being terminated from time to time.

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

Their such appointments are not in dispute and thus instead of annexing all the appointments letters pertaining to all the orders, the applicants beg to annexed one such of their such appointments letters and the same are annexed as ANNEXURE 2.

4.6 The applicants Crave Leave of the Hon'ble Tribunal to produce all the appointment letters pertaining to their employments in Group 'D' posts as casual basis right from the respective date of their appointment at the time of hearing of the instant application. It is the bonafide belief of the applicants that their such employment will not be disputed by the respondents.

4.6 That the applicants state that even after rendering years of service as Group 'D' casual employee, their services have not been regularised and their services are being taken by the respondents in exploitative terms. As pointed out above, their services are utilised for a particular period in a year and after that their services are terminated and again in the next year they

are appointed for another period. This process has been going on since the days of their respective employments. Further, sometime during the intervening period they are also given casual employment like that of any other Gr. 'D' Casual employee. Thus, the case of the ~~employees~~ applicants, stand ^{that} ~~thus~~ all of them are ^{and} duly sponsored by the employment exchange, selected by the respondents for being appointed as casual Gr. 'D' employees, 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 under the relevant scheme formulated by the Government 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' employees of the Central Water Commission similarly situated with that of the applicants had moved the Principal Bench of the Hon'ble CAT, New Delhi. by way of filing various O.A. wherein some kind grievances have been raised 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, 804/92, 1601/92 and 2418/92 allowed the said O.A. with the following directions

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- (i) the ^{respondents} inspections 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 appointment of the regular posts that can be created on this basis should be made. For regularisation of all those, who have completed 240 days of 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 reference to their juniors and outsiders.
- (iv) Such a scheme shall be ~~submitted~~ submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of

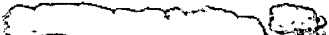
of communication of this order by the petitioner to them.

There shall be no order as to costs."

A Copy of the said Judgement is annexed herewith and marked as Annexure-23

4.8 That the applicants state that the said judgement whocarried as review by the respondents therein but the same who dismissed by the Hon'ble Tribunal by its Judgement and order dated 9.5.94.

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

4.10 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 service without any interrupted 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' employees on conferment of temporary status with all consequential benefits. After the aforesaid judgement, there has been no occasion to terminate the service of the applicants therein and they are enjoying the benefits of temporary status as per the scheme holding the filed. The Central Water Commission has furnished formulated and adopted the scheme as was formulated by the Government of India, Ministry of Personnel & Public Grievances with slight modification here and there, were 

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were particularly, as regards number of working days. The respondents may be directed to produce a copy of the same formulated by the ^{under} manner which the ~~application~~ applicants are entitled ^{to} be conferred with temporary status with all consequent benefit.

4.10 That the applicants state that the respondents instead of being a model employer has envisaged under the Constitution of India and the laws framed thereunder, have been utilising the services of the applicants for the last several years in exploitative terms without giving them any hope of future prospects. Thus the applicants have attained a stage under ^{which} they are ^{can} neither go for other employment nor they can abandon their present employment. All of them have become over aged for any other Govt. job. Thus, with the meagre income they earn from their casual employment, they along with their families are in precarious predicament.

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

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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 there after regularisation of their services. The applicants further state that it is their reasonable apprehension that since they have ^{come} ~~been~~ under the protective hands of this Hon'ble Tribunal. their services may not 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.

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 been 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 Deptt. the respondents are duty bound to apply the principle laid down therein in cas-e of the applicants also without requiring them to approach the Hon'ble Tribunal. again.

5.4 For that the Constitutional mandate demand that the services of applicants be regularise 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 and conferment of temporary status have not been extended to the other similarly situated employees, there is an earthly reason as to why the same treatment should not be extended to the applicants.

5.6 For that the applicants have been treated differently and thus, there is violative of Article 14 and 16 of the Constitution of India.

5.7 For that the applicants having been continued under the respondents for the last several years and in the process having lost their chances of employment elsewhere and being overaged, 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 services and ~~there~~ they cannot be utilised in exploitative terms in violation of the provisions of the Constitutional rules and the laws framed thereafter.

of the applicants with restrospective effect, i.e., the respective dates of their appointment with all consequential benefits including arrear salary and seniority.

2. To direct the respondents ~~arrear salary and seniority~~ to extend the benefit of Annexure 'B' 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 applicnats and to allow them to continue in their service through the year till such time their service are regularised.

4. Cost of the applicantions:-

Any other relief or reliefs to which the Hon'ble Tribunal deem fit and proper,

9. INTERIM ORDER PRAYED FOR:-

Under the facts and circumstances stated above, the applicants prayed for an interim order directing the respondents not to terminate the services of the applicants ~~atkins~~ with further difection to allow them to continue in their service without any interruption.

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10. The application has been filed through Advocate.

11. PARTICULARS OF THE I.P.O.

i) I.P.O. No. :- 8.11.444483

ii) Date :- 3-10-96.

iii) Payable at :- Gauhati.

12. LIST OF THE ENCLOSURES:-

As stated in the Index.

Verification.....

F

VERIFICATION

I, Shri Firoz Khan Laskar, S/o Late Muntez Rahman, R/o Village & P.O. Vehangcha Dist: Hailakandi aged about 32 years do hereby solemnly affirm and verify the statements made in para 1 to 4 and para 6 to 12 of the accompanying application are true to my knowledge and those made in paragraph 5 are true to my legal advice and I have not suppressed any material facts.

And I am competent as I am the applicant No. 1 in the instant O.A. and I am also authorise by the other applicants to sign this verification on their behalf.

And I sign this verification on this Day of 29th September, 1996.

Signature of the applicant

F
Firoz Khan Laskar

ANNEXURE-1.

<u>NAME</u>	<u>PLACE OF POSTING</u>	<u>WORKING SINGLE</u> (May 15 to Oct, 15)
1. P.K. Laskar	Barak Sub-division, C.W.C. Panchyat Rd. Silchar-4	1985-96
2. P.K. Das	-do-	1985-96
3. N.S. Pator	-do-	1988-96
4. S. Baruah	-do-	1985-96
Ex-officio charges		
5. A.S. Barbhuyan	-do-	1985-96
6. Birju Joy Das	-do-	1985-96
		and on Casual Basis From 5.12.90 to 10.5.91
7. K.K. Roy	-do-	1990-96
8. H.Nunia	-do-	1986-96
9. S.C. Das	-do-	1988-96
10. R.C. Choudhury	-do-	1992-96
11. S.K. Das	-do-	1986-96

Attested.

Advocate.

No. FD-II/C/Estt-II/1/96/139-75
Government of India
Middle Brahmaputra Division
Central Water Commission
Rajgarh Road, Guwahati - 7,

TELE : 560445
541071

Dated Guwahati, the 6/5/96,

MEMORANDUM

The undersigned hereby offers appointment to the following persons as "SEASONAL" W/C Khalasi in the work-charged establishment in the pay scale of Rs. 750-12-870-EB-14-940/-with the usual allowances as admissible as per rules from time to time.

S/No.	Name & address of candidates.	Employment Ex. Regd. No.	Place of posting	Remarks
1	2	3	4	5
1.	Sri Sushil Ch. Das, C/O Sri Rajendra Ch. Das, Chitta Ranjan Road, Janiganj Bhuiya Road, Silchar, Cachar.	763/79	W/T Station, A.P. -ghat, under BSD Silchar.	
2.	Miss Sulekha Paul, C/O Swjala Paul, C/D, House, Meherpur, P.O- Meherpur, Cachar.	776/77	Barak Sub-Divn. office, C. C., Silchar.	
3.	Sri Jitendra Ch. Das, S/O Tarachand Das, P.O & Vill-Salchakra, Cachar.	451/79	Karimganj site, under BSD, Silchar.	
4.	Sri Sukumar Das, C/O Late, Kamini Das, Vill-Meherpur, C/D Home, P.O-Meherpur, Cachar.	7060/80	Gharmura site, under BSD, Silchar.	
5.	Sri Arun Kr. Das, C/O, Late, Prafulla Kr. - Das, Vill-Bakrihwar-vii, P.O-Kalinagar, Cachar.	539/82	Matizuri site, under BSD, Silchar.	
6.	Sri Pradip Kr. Dey, C/O Swapen Kr. Bhadra, Tarapur, Silchar-3, Cachar.	2143/79	Karimganj site, under BSD, Silchar.	
7.	Sri Harinarayan Munia, C/O Shukdo Dee Munia, P.O-Singalla, Cachar.	1955/83	Eholai site, under BSD, Silchar.	
8.	Sri Lalpiongther Hmar, S/O Late K. Khupa, Chotto- bekra, through A.E. Barak- Sub-Div. C. C., Silchar.	J/US/74/85	W/T Stn. Chottobekra under BSD, Silchar.	

Contd... 2/-

Witnessed.

Advocate.

1	2	3	4
24 9.	Sri Aswini Kr. Das, S/O Late Prakash Ch. Das, P.O & Vill-Ganganagar, Dist.-Cachar.	769/80	W/T. Stn. Amraghat under BSE, Silchar.
10.	Sri Dipu Dutta, C/O Dwijendra Dutta, Vill-Amraghat, P.O- Dharmikhal, Dist-Cachar.	5521/81	W/T. Stn. Amraghat under BSD, Silchar.
11.	Sri Kunja Mohan Das, C/O Baistab Ch. Das, Sonai Road, Silchar-5.	3858/76	W/T. Stn., Matizuri under BSD, Silchar.
12.	Sri Subendu Barman, C/O Bhugesh Ch. Barman, Vill-Sadargram, P.O-Dholai, Bazar, Dist-Cachar.	6139/84.	W/T. Stn., Ohulai, under BSD, Silchar.
13.	Sri Nibaran Namasudra, C/O Late Kalimohan Nama sudra, Vill & P.O-Gossaipur, Cachar.	570/77	W/T. Stn. Gharmura, under SD, Silchar.
14.	Sri Faizul Haque Barbhuya, C/O Sidur Rahman Barbhuyan, Vill-Purbekihurt nd-ii, P.O-Amala, Cachar.	1756/80	W/T. Stn. Gharmura under BSD, Silchar.
15.	Sri Shyamal Kanti Das, C/O Binode Behari Das, Vill-Chandpur, Cachar.	5378/80	Harangajao site under BSD, Silchar.
16.	Sri Trigujoy Das, C/O Sri Bharat Ch. Das, Vill-Narainpur, P.O.- North Narainpur, Cachar.	105/81	Matizuri site, under Silchar.
17.	Sri Sankar Sinha, C/O Bijan Ch. Sinha, Vill-Nabasantipur, P.O-Janekibazar, Vill- Janekibazar, Cachar.	41/84	Amarpur site, under BSD, Silchar.
18.	Sri Firoz Khan Laskar, C/O Montazur Laskar, Vill-Vivbingoha, Cachar.	1096/80	Manu site, under BSD, Silchar.
19.	Sri Dilip Kr. Das, C/O Monoranjan Das, Annapurnaghat, Farapur, Silchar-3, Cachar.	6307/83	Sarak sub-Divn- office, C.C, Silchar.
20.	Sri Abdus Samed Barbhuya, C/O Late Sunahar Ali Bar- bhuya, Gangapar, Lhum- kar-iii, Dist-Cachar.	2610/84.	Karimganj site, under BSD, Silchar.
21.	Sri M.S.Pitter, Babupara, Jiribum, Near A.R.C.S. Office, P.O- Jiribum.	J/US/10/83	Lakhipur site under BSD, Silchar.

1	2	3	4	5
22.	Sri Himangshu Dutta, Borobekra Bazar, P.O-Borobekra.	J/US/47/ 83	Chottobekra site, under BSD, Silchar.	
23.	Sri Krishna Kt. Roy, C/O Kalachand Roy, Vill & P.O-Badripar, Dist-Cachar.	5234/79	Borkhola site, under BSD, Silchar.	
24.	Sri Ramendra Choudhury, C/O A.E. Barak Sub-Div. C.C, Silchar.	4780/88	W/T Stn. A.P.ghat, under BSD, Silchar.	
25.	Sri H. Sangkhum, C/O A.E. Barak Sub-Divn., C.C, Silchar.	-	W/T. Stn., Chottobekra under BSD, Silchar.	
26.	Sri Malini Mohan Das, C/O A.E. Barak Sub-Div. C.C, Silchar.	1396/84	Harangajap site, under BSD, Silchar.	
27.	Sri Phanidhar Kakati, C/O A.E. Barak Sub-Divn. C.C, Silchar.	3649/90	Amarpur site, under BSD, Silchar.	
28.	Sri Dinesh Kakati, C/O A.E. Barak Sub-Div. C.C, Silchar.	-	Borkhola site, under BSD, Silchar.	
29.	Sri Debasis Dutta, Purkayastha, C/O- G.R.Sen, J.R.C. Sub- Divn., Kanakpur, Silchar-5.	4930/82	W/T. Stn. A.P.ghat, under BSD, Silchar	
30.	Sri Dwijaraj Debnath, Vill & P.O-Srirampur, Kaileswahar, North- Tripura.	N-1054/88	W/T.Stn. Kaileswar, under BSD, Silchar.	
31.	Sri Kusum Debbarmen, C/O Radha Krishna Beb- barman, P.O & Vill- Chotosurma, Kamalpur, N.Tripura.	N-977/82	Manu Gauge site, under BSD, Silchar.	
32.	Miss Panit bala Das, C/O Sri Mukunda Ch. Das, Jiribum, Chhotobekra, Manipur.	J/W/3/95	Chottobekra site, under BSD, Silchar..	

The appointment is on ad-hoc basis to be effective from 15-5-96 (FN) and is purely temporary and up to 15-10-96 (AN), or completion of work whichever is earlier without further notice.

The apointee should produce before joining the post a Certificate of physical fitness from a competent authority.

No travelling allowance will be allowed for joining the above appointment.

All the person concern may please report to their respective site between 15/5/96 to 31/5/96.

Attested.
Advocate.

Cont..... 4/-

V. P. SHIV
(V. P. SHIV)
EXECUTIVE ENGINEER

26 Copy forwarded for information & necessary action :-

- 1) The Asstt. Engineer, Barak Sub-Division, C.C.,
Silchar - 7. The date of joining of the person
concerned may please be intimated to this offi-
ce in due course.
- 2) The Asstt. Engineer, Mechanical Sub-Divn. C.C.,
Guwahati - 22 for information & necessary action.
- 3) Person concerned (32 copies)
- 4) The A/B, D/B, Middle Brahmaputra Division,
C.C., Rajgarh road, Guwahati - 7.
- 5) The J.E. (HC), MBD-II, C.C., Guwahati - 22.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

REGD. AD/SPL MESSENGER

Faridkot House,
C. J. Binicus 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 Hazari Court, Delhi-54

DA 223/92 & 884/92

2.

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

3.

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

4.

Shri P.P. Khurana,
Counsel for the respondents, in DA 2418/92
CAT., Bar Room, New Delhi.

1.

Shri Vinod Kumar & Ora

2.

Shri Sewak Ram & Ora.

3.

Shri Rajesh Kumar Saini

4.

Shri Rajinder Sharma & Ora.

DA 223/92

DA 884/92

DA 1601/92

DA 2418/92

Applicant (s)

G.A. No.

VERSUS

Union of India & Ora. Respondent(s)

Sir,

I am directed to forward herewith 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

Witnessed.

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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. DHANU, 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-11,
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).

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 I, R.K. Puram, New Delhi.

Advocate

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.)

29
(through Mr Jog Singh, Advocate).

O.A.No.1601 of 1992

Shri Rajesh Kumar Saini
s/o Shri Veer Sain Saini
Workcharged Khallasi
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
Shram 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 1601 and 2245/92 and
through Mr P.P.Khurans in O.A.No.2418 of 1992).

ORDERB.N.DHOUNDIYAL, MEMBER (A)

The applicants, in all the above-mentioned O.As have been working as Khafasis, 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

Attested.

Advocate.

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. Piar 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

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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;



Attested.
/s/
Advocate.

Dr

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(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 of this order by the petitioner to them.

5. There shall be no order as to costs.

(B.N.Dhourdiyal)
Member(A)

(S.K.Dhaon)
Vice Chairman

/sds/

RECEIVED
(12/12) 13/12/77
Section Officer
Section Officer

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

1993

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, Tolastot Marg,
New Delhi.

Versus

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

2. Raju Kashyap S/o Sh. Nikka Ram

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

4. Sh. Dali Singh S/o Sh. Bhup Singh

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

6. 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.)

Attested.

Advocate.

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
for information and necessary action, if any.

Yours Faithfully,

SECTION OFFICER(J-II)

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Administrative Tribunal
1 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. Dhaon, 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. Jog Singh)

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

Shri Jayant Kumar Pathak,
S/o Sh. Kushoshwar 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 Khillasi,
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. Shantanu Sharma,
Carpenter, Central Stores Divn.,
Central Water Commission,
West Block No.1, Wing No.4,
2nd Floor, R.K. Puram,
New Delhi.

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- 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. Hanu 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 review applications have been filed
by the respondents against the common judgement delivered
on 10.02.94 in O.A.Nos. 223, 884, 1601, 2246 & 2418 of
1992. The following directions were given:-

Attested.
Advocate.

- (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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- (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 usually 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 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.

Attested.
Advocate.

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

②

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- 4 -

established principle.

We, therefore, hold that no error or 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 Commission within the stipulated time.

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

(B. N. DHONDYAL)
MEMBER (A)

(S. K. SHARMA)
VICE CHAIRMAN

/vv/

Original case
- 201-19-19-19

Admitted time copy
4.5.74

CC CD
CAT RB
New Delhi



CERTIFIED
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Section Officer
30/1/74

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

In the matter of

O.A. No. 222 of 1996
Shri F.K. Laskar & Ors.

Vs

Union of India & Ors.

written statement on behalf of
Respondents

The humble Respondents submit their
written statements as follows:-

1. That with regard to statements made in paragraph 1 of the application, the Respondents beg to state that the statement made by the applicants that "presently they are working under the Respondents on casual basis" is not correct. The Respondents further beg to state that all the applicants were engaged as seasonal Khalasis for fixed period from 15th May to 15th October and it was specifically indicated in their engagement letters. They were engaged for assisting in collection and handling of hydrological data from respective rivers for the purpose of flood forecasting during monsoon. The Respondents further beg to state that the alleged scheme referred thereto is not applicable in the facts and circumstances of the present case.

It is further stated that the scheme of 1993 was specifically meant for casual workers and persons on daily wages against the regular establishment in the various department of the Govt. of India. Those who are engaged on workcharged establishment like the present case are not covered by the said scheme. Workcharged staff are employed on the actual execution of specific work or sub-work.

The scheme of 1993 is not applicable to the casual/ adhoc

Filed by:

Shankar
3/2/97
(MD. SHAUKAT ALI)
Sr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

Khalasi/ seasonal Khalasis of workcharged establishment and for those categories, a separate scheme as per the direction of central Administrative Tribunal Calcutta Bench has already been drafted by C.W.C. and Min. of Water Resources and is being circulated to concern Ministries and Departments for their comments/ observations within a fixed time frame and immediately thereof the cabinet approval would be sought as per transaction of Business rules. It is further stated that as and when the said scheme is approved, the individual applicant's case would be considered.

2 & 3 Paras 2 & 3 require no reply. .

4.1 Contents of 4.1 requires no reply.

4.2 to 4.6 That with regard to statements made in the para 4.2, 4.3, 4.4, 4.5 and 4.6, the Respondents beg to state that the statement made by the applicants that they are holders of Group 'D' posts on casual basis is not correct. The applicants are seasonal Khalasis engaged in workcharged establishment. The Respondents further beg to state that as mentioned para 1 hereinabove the 1993 scheme is not applicable to the seasonal Khalasis engaged in workcharged establishment. The Respondents further beg to state that as mentioned in para 1, the seasonal Khalasis are engaged in workcharged establishment for a specific purpose i.e. for assisting in collection and handling of hydrological data for flood forecasting from respective rivers during monsoon from 15th may to 15th October every year. Accordingly they are engaged every year and same kind of letters are issued every year. This fact is always mentioned in their engagement letters. It is stated that the applicants have never been appointed in Group 'D' Casual employment, as alleged. In fact they were engaged only as a seasonal workcharged Khalasis for a specific duration. The Respondents further beg to state that only one applicant Shri Birju Joy Das was engaged in 1990-91 for about five months

8 & 9 In view of the facts and circumstances stated hereinabove, the applicants are not entitled to any of the relief sought for, and, as such application is liable to be dismissed.

10 to 12 Paras 10 to 12 require no reply.

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

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 statement made above are true to my knowledge, belief and information based on official records. Legal submission made therein are true upon legal advice received and believed to be correct. I sign this verification on this First day of Feb., 1997 at Guwahati.

V.P. Shiv
DECLARANT