

10/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
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✓
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SECTION OFFICER (Judl.)

Bahis
20.1.98

JA No. 223196

Akhil Patkar & Anr. Applicant(s)
VS
Union of India & Ors. Respondent(s)

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

B. Ali, Sr. C.G.S.C.
Mr. G. K. Choudhary, B.L. Advocates for the Respondent(s)

Office Notes Date Courts' Orders

This application is in
form and within time
C. P. & R. 30/-

10.10.96

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

IPD No 444482
Dated ... 3.10.96

Adjourned for admission to
14.10.1996.

Sarma
By Registrar 1/10/96

Member

pg

14.10.96

.. Learned counsel Mr B.K. Sharma
for the applicant. Mr S. Ali, learned Sr.
C.G.S.C. for the respondents.

Heard Mr Sharma for admission.
Prayer to allow the applicants to join
together in this single application is granted
in terms of Rule 4(5)(a) of the Central
Administrative Tribunal (Procedure) Rules,
1987, as the conditions mentioned therein
are fulfilled.

Perused the contents of the
application and the relief sought. The
application is admitted. Issue notice on
the respondents by Registered Post.

List for written statement
and further orders on 26.11.96.

Heard Mr Sharma on the interim
relief prayer. The respondents are directed
not terminate the service of the applicants
without permission of this Tribunal.

Member

14.10.96

Copy of order dtd
14.10.96 issued to
the concerned parties

By Registrar

11/96 (14.11.96)

Notice issued to

concerned parties

No. 3729 dt-14.11.96

1) Service Reports are still awaited.
2) Wt statement has not been filed.

22/11

nk m/15/10

26.11.96

Mr. S.Sarma for the applicants.

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

Written statement has not been submitted.

List for written statement and further orders on 30.12.1996 as requested by Mr. Ali.

ba
Member

trd
M/
26/11

18.12.96

Vide order today in M.P.230/96 the interim order dated 14.10.96 has been modified.

17.1-97

1) Service Report are still awaited,

1 w/statement has not been filed.

Member

pg

30.12.96

Mr S.Sarma for the applicants.

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

Written statement has not been submitted.

List for written statement and further orders on 20.1.97.

ba
Member

pg

2) Service Reports are still awaited 20.1.97

3) w/statement has not been filed

3) Memo of appearance has not been filed by Mr. S. Ali, Sr.C.G.S.C

pg

M/
20/1

Written statement has not been filed. List for written statement and further orders on 12.2.97.

ba
Member

12-2-97

Mr.B.K.Sharma, learned counsel appearing on behalf of the applicant submits that similar cases are pending in this Tribunal.

Let this case be listed for hearing alongwith other similar cases.


Member


Vice-Chairman

19-2-97

pg
N/8/2

Q/s filed on 17.2

R. no. 1-3

10.3.97

Let the case be listed on 21.4.1997 for hearing.


Member


Vice-Chairman

trd
K/12/3

17.4.97

21.4.97

Let the case be listed for hearing on 2.6.97.

Ready to hearing.


Member


Vice-Chairman

pg

K
22/4

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} ~~us~~ 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 7.7.1997.


Member


Vice-Chairman


pg

9
3/6

7.7.97

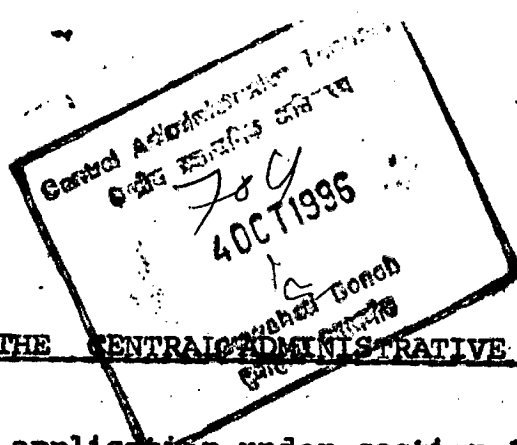
Heard ~~both~~ counsel of the parties. Hearing concluded. The application is disposed of on withdrawal with liberty to file fresh application if so advised. No order as to costs. Order is kept in separate sheets.


Member


Vice-Chairman

trd

w/s. has been heard.
5/7
w/7



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH.

(An application under section 19 of the Administrative Tribunal Act, 1985.)

~~XXXXXX~~

Title of the caseO.A. No. 223/96

Shri Akhil Pathak & another Applicants.

-Vs-

The Union of India & Ors Respondents

I N D E X

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For Use in Tribunal's Office

Date of filing a- 4.10.96

Registration No:- OA. 223/96

[Signature]
REGISTRAR 4/10/96

File by
Bachchan
mm
3-10-96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH.

REF NO.

O.A. NO. 223/96

BETWEEN

1) Shri Akhil Pathak ✓

worked charged Khalasi, Office of the Executive Engineer
Central Water Commission Middle ~~Central~~ Brahmaputra
Sub-division Gauhati.

2) Shri Niranjan Das, ✓

worked charged Khalasi, Office of the Executive Engineer
Central Water Commission, Middle Brahmaputra Sub-
Division, Gauhati.

.....Applicants.

AND -

1) Union of India

represented by the Secretary, Ministry of Water Resources
New - Delhi.

2) The Chairman,

Central Water Commission, Seva Bhawan, R.K. Puram,
New Delhi-66.

3) The Executive Engineer,

Central Water Commission, Middle Brahmaputra Division
Gauhati.

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4) The Deputy Director,

Water Resources & Flood Forecasting Division, No.1.

Central Water Commission. Gauhati.3

.....Respondents

DETAILS OF APPLICATIONS

1) Particulars of the order against which the application is made

The application is not made against any particulars order but it is made for a direction to the respondents to regularise the services of the applicants in terms of order dated 4.1.96 passed in O.A. NO. 189/94 and 212/94 and in terms of various circulars framed by the Govt. of India in the matter of regularisation of casual labours

2) JURISDICTION OF THE TRIBUNAL

The applicants declare that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal

3) LIMITATION

The applicants further declare that the application is within the limitation period prescribed under Sec. 21 of Administrative Tribunal, 1985.

4) FACTS OF THE CASE

4.1) That the applicants are citizen of India & therefore

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they are entitled to all rights and privileges guaranteed by the Constitution of India and 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 ~~their~~ group 'D' employee. The grievances of the applicants and the cause of action for which this application has been preferred before this Hon'ble Tribunal for redressal of the same are similar. They belong to the lower stratum of the society. and are holders of Gr.'D' Post on casual basis 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, 1987.

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

4.4 That the applicants state that as is reflected in Annexure 1 Statement annexed to this O.A. they have been working under the respondents since 1984 and 1986 respectively

They were so appointed in Group 'D' Post on casual basis after their names were sponsored through employment exchange and they were selected for the post of work charged seasonal Khalasi on casual basis. Their appointments are continued ^{each} from year to year and ~~its~~ year they are issued with appointments letters under which they are to work in Group 'D' Post as work charged seasonal Khalasi in the definite scale of pay. Presently, they are given the pay scale of Group 'D' employees under regular employees. However, their services are terminated and / or they are kept in employment for a definite ^{period} and thereafter, they are no longer engaged for the post for the rest of the period in the year. Again in the next year they ^{are} appointed for a further period. Thus the process is going on since the time of their appointment and inspite of the fact ^{that} the Govt. of India has formulated a policy decision for grant of temporary status to the casual employees with the consequence of regularisation in due course, the applicants are still deprived of the same benefit. Their services are rather being terminated from time to time.

4.5 That the applicants state that every year they are issued with same kind of appointment letters and sometimes they are also required to work beyond the prescribed period in the appointment letter on casual basis. They ~~are~~ ^{are} such appointments are not in dispute and thus instead of annexing all the appointment letters, they ~~beg~~ ^{try} to annex ~~one~~ ^{the} of such appointment letters and ^{the} same are annexed as annexure 2A and 2B.

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The applicants Crave Leave of this Hon'ble Tribunal to produce all the appointment letters pertaining to their employments in Group 'D' posts on casual basis right from the respective date of their appointment at the time of hearing of the instant applicants. 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 employees their services have not been regularised and their services are being taken by the respondents in exploitative term as appointed above, their services are utilised for a particulars period in the year and after that their services are terminated and again in the next year they are appointed for another period. This process have been going on since the days of their respective employment. Further, sometime during the intervening period they are also given casual employment like that ^{or} any other group 'D' employees. The case of the applicants stand that all of them are duly sponsored ^{by} employment exchange and selected by the respondents for being appointed as casual Group 'D' employees, their services are being utilised every year for a particular period as work charged seasonal khalasi. Till date their services are not yet regularised and they have not been conferred with temporary status as is required to be conferred to under the relevant scheme

formulated by ^{the} Government of India.

That the applicants crave leave of this Hon'ble Tribunal to produce copy of the relevant scheme at the time of hearing of this instant O.A.

4.7 That the applicants state that some of the group 'D' employees of the Central Water Commission similarly situated at with that of the applicants had approached the Principal Bench of this Hon'ble C.A.T. New Delhi by way of filing various O.A.s wherein same kind of grievances have been raised ^{as} in the instant application were raised. The Principal Bench of this Hon'ble C.A.T. by its common judgement dated 10.2.94 in O.A. No. 273/92, 804/92, 1601/92 and 2418/92 allowed the said O.As with the following directions: (1)

" (1) The respondents shall prepare a scheme for retention and regularisation of the casual labour employed by them. This Scheme should take into account the regular post, that can be created taking into account the fact that even if a particular scheme is completed, new schemes are launched every year and assessment of regular post 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 prior-ity in accordance with their length of their services.

(ii) Those who have completed 120 days of service should be given temporary status in accordance with the ~~xx~~ instructions

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issued by the Department of Personnel from time to time.

After completion of 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 by respondent for scrutiny of this Hon'ble Tribunal within a period of 3 months from the date of communication of this order by the petitioner to them.

Their shall be no order as to costs".

A copy of the said judgement is annexed herewith and marked as Annexure-3.

4.8 That the applicants state that the said judgements was carried on review by the respondents therein but the same was dismissed by the Hon'ble Tribunal by its order and judgement dated 9.5.94.

A copy of the same judgement dated 9.5.94 is annexed herewith and marked as ANNEXURE.4.

4.9 That pursuant to the said judgements 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 interruption. and break and they are enjoying the consequence of granting the temporary status. One of the applicants in the aforesaid O.A.

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has been

transferred to Shillong and he has been continuing as Group 'D' employees on conferment of temporary status with all consequential benefits. After the aforesaid judgement, their 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 Commssion has formulated and adopted the scheme as was formulated by the Govt. of India, Ministry of Personnel & Public Grievances with a slight modification here and there, more particularly as regard to the 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 laws framed thereunder have been utlising the services of the applicants for the last several years in exploitative terms without giving them any ray of hope of future prospects. Thus the applicants have attained a stage under which they can neither go for other employment nor they can abandon their present employment. The applicants have already become over aged for any other government job. Thus with the meagre income they earn their livelihood from their casual employment, they alongwith their families are in precarious predicament.

.....9/-

AK

4.11 That the applicants state that in view of the aforesaid judgement of the Principal Bench, pertaining to the said Department and same subject matter of employment for Group 'D' employees, 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 them to come under the protective hands of this Tribunal.

4.12 That it is pertinent to mention here that the applicants had approached this Hon'ble Tribunal by way of filing O.A. 189/94 and 212/94 respectively. The Hon'ble Tribunal was pleased to dispose off the said O.A. vide its order dated 1.11.94 and 11.11.94 in the respective O.As directing the respondents to consider the case of the respective applicants sympathetically under the scheme.

The said order was communicated to the respondents there to but the respondents wilfully disobeyed the order.

A copy of order of the O.A. is annexed herewith as ANNEXURE-5.

4.13 That the applicants ^{State} that after getting no fruit-ful result from the respondents regarding regularisation of their services and non implementation of the said judgement dated 1.11.94 and 11.11.94 they filed application u/s 24 of the C.A.T. (Procedure) Rules 1987 for implementation of the

said judgements. The Hon'ble Tribunal was pleased to dispose off those MPs with an observation to implement the order within a short time i.e., by May - June 1996 when the new scheme will be implemented and the case of the applicants their after.

A copy of the said order dated 4.1.96 is annexed herewith and ANNEXURE-6.

4.14 That the applicants state that the respondents are duty bound to implement the judgement of the Hon'ble C.A.T.. The respondents in one of their communication have assured the applicants that the case regarding framing of a scheme for grant of temporary status and regularisation of Work Charged seasonal adhoc in C.W.C. is still under consideration in consultation with Ministry of Water Resources, Ministry of Law and Justice and Department of Personnel and Training etc,

A copy of the said communication dated 20.5.95 is annexed herewith and marked as ANNEXURE-7.

4.15 That the applicants state that in view of the facts and circumstances stated above they are compelled to come under the protective hands of this Hon'ble Tribunal again. Further it is stated that by the petitioners that the respondents have acted illegally and have acted in direct confrontation with the Hon'ble Tribunal's order

4.16 That the applicants state that it is their reasonable apprehension that since they have come 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 this instant O.A. It is further stated by the applicants that the respondents have under-taken several other project works and there are post still lying vacant in the Department and hence there is no earthly reason as to why the services of the applicant should not be continued. Again on the other hand the respondents have undertaken to prepare scheme to absorb the casual labour, like that of the applicants, the applicants pray before this Hon'ble Tribunal further to pass appropriate interim order directing the respondents to allow the applicants in any Group 'D' Posts.

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 under 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 filed pertaining to the same department and the same

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subject matter, the Departments and the respondents are duty bound to apply the principles laid down therein in the case of applicants also without requiring them to approach the Hon'ble Tribunal again and again.

5.4 For that the constitutional mandate demands that the services of the applicants be regularised and their services could 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 no earthly reason as to why the same treatment should not be meted out to the applicants.

5.6 For that the applicants have been treated differently and thus there is violation of article 14 & 16 of the Constitution of India.

5.7 For that the applicants have been continued ⁱⁿ Services under the respondents for the last several years and in the process they have lost their chances of employment elsewhere ~~hence~~ they being over aged to be absorbed elsewhere

5.8 For that the respondents are duty bound to give weightage to the services rendered by the applicants towards regularisation of the applicants' services and they cannot be utilised the same in exploitative terms in violation of provision, mandate and the laws framed ~~thereunder~~ thereunder.

6. DETAILS OF REMEDIES EXHAUSTED

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

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

The applicants further declare that they have not previously filed any application, writ petition or suits regarding the subject matter in respect of which the application has been made before any Court of Law, or any other authority and / or other Benches of this Hon'ble Tribunal and / or any such application, writ petition or suit is pending before any of them.

8. RELIEF SOUGHT FOR :-

In view of the facts and circumstances stated above, it is moast 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 or causes that may be shown be pleased to grant the following reliefs.

8.1 To direct the respondents to regularise the services of the applicants with retrospective effect i.e, the respective dates of their appointments with all consequential benefits including arrears salary and seniority.

8.2 To direct the respondents to extend the benefits of Annexure-3 judgement and order of the Principal

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BENCH of the Hon'ble C.A.T., New Delhi.

8.3 To direct the respondents not to terminate the service of the applicants and to allow them to continue in their services through out the year till such time their services are regularised.

8.4 The Cost of the application.

Any other relief or reliefs to which the Hon'ble Tribunal deems 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 with further direction to allow them to continue in their services without any interruption.

10. The application has been filed through Advocate

11. Particulars of the I.P.O.

I.P.O. No.:- 8, 11, 444482

Date :- 3-10-96

Payable at:- G.P.O. Gauhati

12. LIST OF ENCLOSURES:-

As stated in the Index

verification.....

AC

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

6666=====

I, Shri Akhil Pathak, aged about ~~29~~-years 31 years R/o Christian Basti, P.S. Dispur, Gauhati at present working as Work Charged Seasonal Khalasi in the office of the Executive Engineer, Central Water Commission, Middle Brahmaputra Division, do hereby verify and state that the statements made in para 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraphs 5 are true to my legal advice and the rest are my humble submission before this Hon'ble Tribunal and I have not suppressed any material facts.

And I sign this verification as applicant No.1 on being authorised by the applicant No.2 on this the 29 th Day of September, 1996.

Deponent

R

Shri. Akhil Pathak

Niranjan Das.

<u>Years</u>	<u>Place of posting.</u>	<u>No of days.</u>
1986	Kimi Power site	85 days
1987	-do-	307 "
1988	-do-	356 "
1989	-do-	387 "
1990	-do-	359 "
1991	-do-	358 "
1992	-do-	282 "
1993	mis -Pandu site	107 "
1994	M.B. Sub- Divn.	154 "
1995	-do-	154 "
1996	-do-	154 "(Not yet complited)

* * * * *

Akhil Pathak.

1987 (From Fromal of appointment)	270 days
1988	266 days
1989	312 "
1990	318 "
1991	338 "
1992	154 "
1993	154 "
1994	154 "
1995	154 "
1996	154 " (Not yet complited)

* * *

Attested.
29.9.96
Attested.

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
MIDDLE BRAHMAPUTRA DIVISION
RAJGARH ROAD : GUWAHATI-781007

NO. MBD/WC/ES T-24(A)/95/ 202/- 177 Dated the 1/7/1995.

MEMORANDUM

The undersigned hereby offers appointment to the following persons as "Workcharged Seasonal Khalasi" in the workcharged establishment in the pay scale of Rs.750-12-870-3-14-940/- per month with usual allowances as admissible as per rules from time to time.

Sl. no.	Name & address of the candidate	Employment Exchange Regd. No.	Place of posting	Remarks
1.	Shri Bhadesh Ch. Das Vill. Aminigaon, Upper Bari, P.O. Aminigaon, Guwahati.	Guwahati 4386/83	Pancharetna	
2.	Shri Sona Ram Nath Vill. Choudhuryghat, P.O. Choudhuryghat, Kamrup.	-do- 9322/83	-do-	
3.	Shri Majibur Rahman Vill. & P.O. Lakhipur, Goalpara.	Goalpara 9131/80	-do-	
4.	Md. Edul Haque, C/O Md. Rafiq Haque, North Jalukbari, Guwahati-14.	Guwahati 3733/87	Pandu site	
5.	Md. Hussain Ali, Vill. North Jalukbari, P.O. Jalukbari, Guwahati-14.	-do- 2023/83	-do-	
6.	Md. Mir Kasim Ali, C/O Md. Aziz Ali, Vill. North Jalukbari, P.O. Jalukbari, Guwahati-14.	-do- 1205/93	-do-	
7.	Md. Moinul Haque Vill. Dharapur (Majali), P.O. Dharapur, Guwahati-33.	-do- 18446/83	D.C. Court, Guwahati	
8.	Md. Nur Hussain Vill. Katia dolong, P.O. Jalukbari, Guwahati-14.	-do- 3733/89	D.C. Court Guwahati.	
9.	Shri Rabin Kalita, Vill. Malaybari, P.O. Malaybari, Dist. Kamrup.	-do-	-do-	
10.	Shri Niranjan Das Vill. Garai Faruapara, P.O. Bhattapara, Assam.	-do- 611/84	H.B. Sub-Divn., C.C., Guwahati.	
11.	Shri Bandhab Kalita C/O S.R. Kalita, Rajgarh Road, Guwahati-3.	-do- 1056/83	-do-	
12.	Md. Jalil Ali Chani C/O Md. Akbar Ali (Professor), S.K. Bhuyan, Road, Guwahati.	-do- 4197/88	-do-	
13.	Md. Abdul Rajek, C/O Md. Latan Seikh, Vill. & P.O. Jalukbari, Guwahati-14.	-do- 5592/89	-do-	

The appointment is on "Ad-hoc" basis and is purely temporary and will not continue beyond 15.10.95 (A.N.) or completion of work whichever is earlier without further notice.

The person concerned are hereby directed to report for his duties to the place of posting as mentioned above under the

M.B. Sub-Division, C.C. Guwahati-1-3.

Let on 15.5.95 to 31.5.95 positively, otherwise the offer will be automatically treated as cancelled.

No T.A./D.A. etc. will be admissible for joining the above mentioned appointment.

(A.S.P. SINHA)
EXECUTIVE ENGINEER

Copy forwarded for information and necessary action to :-

1. The Assistant Executive Engineer/ Assistant Engineer
- M.B. Sub-Division, C.C. Guwahati-1-3.

Joining Report of the person may please be sent to this office.

The E.A.D. (HQ), M.B.Divn., C.C. Guwahati-7/ Data Cell, M.B.Divn., C.C. Guwahati-7.

Joining Report may please be sent to this office.

3. Shri :

4. The Employment Officer, District Employment Exchange.

Guwahati/Coalpara.

5. Accounts Branch, M.B.Divn., C.C. Guwahati-7.

or

(A.S.P. SINHA)
EXECUTIVE ENGINEER

18

GOVERNMENT OF INDIA
CENTRAL WATER COMMISSION
MIDDLE BRAHMAPUTRA DIVISION

NO. MBD/WQ/ESTT-24(A)/94/2530-61 Dated 3/5/1994.

M E M O R A N D U M

The undersigned hereby offers appointment to the following persons as "Workcharged Seasonal Khelasi" in the workcharged establishment in the pay scale of Rs. 750-12-870-EB-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 Regd. No.	Place of posting	Remarks
1.	Sh. Gobinda Barmen C/O Bangshi Kalita Chonikuthi Hill site Salakhuri, Guwahati.	Guwahati 5079/	B. B. Circle, CWC, Guwahati	
2.	Sh. Madhab Ch. Doo Vill. Ketskibari P.O. Dorembol, P.S. Na Jo.	Guwahati 5668/87	A.E. (Wireless) Section	
3.	Sh. Akhil Pathak C/O D. B. Chatterji B. B. Circle, CWC, Guwahati-24.	Guwahati 8586/83	-do-	
4.	Sh. Ushab Ch. Doo C/O Padma Ch. Doo, Vill. Barkentola Na Jo.	Guwahati 8244/88	Post Section	
5.	Sh. Dipul Deka Railway Colony Bamunideon Guwahati-29.	Guwahati 7254/88	-do-	
6.	Sh. Kanak Sharma C/O K. C. Sarma, Vill. Yithuchi, Korup.	Guwahati 3410/87	-do-	
7.	Mico. Bikha Bhattacharjee C/O B. B. Kar, P.O. & Vill. Kohilipara, Guwahati-18.	Guwahati 4587/90	-do-	
8.	Shri Sagar Ch. Dey, C/O Dabon Doo (Bar) S. P. Bhattacharjee Racharibacti, Guwahati.	Guwahati 806/93	-do-	

Attested.

- 23 -

ANNEXURE - 3

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

BY REGD. AD/SPL MESSENGER

Foridkot House,
Punjab Marg,
NEW DELHI 110001

From

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

18/2/94

To

1.

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

DA 223/92 & 804/92

2.

Shri B.G. Maina,
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 & Ors

2.

Shri Sanak Ram & Ors.

3.

Shri Rajesh Kumar Gauri

4.

Shri Rajinder Sharma & Ors.

DA 223/92

DA 884/92

DA 1601/92

DA 2418/92

G.O.No.

VERSUS

Union of India & Ors. Respondent(s)

Sir,

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

Yours faithfully,

SECTION OFFICER (G-IV) (J-11)

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- 26 -

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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. DHONDIAVAL, 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, 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.

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 Respondent
(in both above O.A.s)

(through Mr Jog Singh, Advocate),

O.A.No.1601 of 1992

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

(through B.S.Mainee, Advocate).

.. .. Applicant.

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.

(through B.S.Mainee, Advocate).

.. .. Applicant.

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 Total Ram.

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

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

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

(through B.S.Mainee, Advocate).

..... Applicants.

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

Attes. eon

24.3.96

- 27 - 21

- 25 -
- 3 -

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 15.1.1986 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.

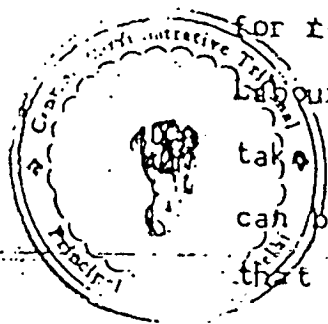
So far as the work-charged employees and casual labour are concerned, the effort must

Alleged
27/5/96

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;



files.
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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 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/

RECEIVED
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Section (III)
Section (III)

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29.8.96

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Faridkot House
Copernicus Marg,
New Delhi-1.

Dt. 30/5/94

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

1. Sh. Jog Singh
counsel for the applicant in RA
1108, Prakash Deep, 7, Tolastot 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. Nikka Ram
4. Sh. Daya Ram S/o Sh. Ganga Ram
5. Sh. Dali 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.)

Soc. 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,

(Signature)

SECTION OFFICER (J-II)

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24

Administrative Tribunal
1 Bench, New Delhi.

RA-165/94 in - 2246/92, RA-171/94 in OA-1001/92
and RA-172/94 in OA-2418/92.

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

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

RA-165/94 in RA-2246/92 RA-171/94 in OA-1001/92 &
RA-172/94 in OA-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 OA.

(through Sh. Jogi Singh)

RA-165/94 in OA-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 OA.

RA-171/94 in OA-1001/92

Shri Rajesh Kumar Saini,
S/o Shri Veer Sain Saini,
Workcharged Khillari,
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 OA

RA-172/94 in OA-2418/92

1. Shri Rajender Sharma,
S/o Sh. Shambhan 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. Karam Singh.
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 order 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 accord-
ance with the instructions issued by the
department of personnel from time to time.
After completion of the required period of
service, they should be considered for
regularisation;

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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 would result in retention of junior people while rendering the senior people surplus. It is their contention that due to financial constraint and completion of works in hand W/C staff under different categories from both Central Store Division as well as Planning Division are likely to be rendered surplus after 31.3.1964. 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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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 Board within the stipulated time.

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

(B.N. CHANDRAN) MEMBER(A)

(S.K. JHA) VICE-CHAIRMAN

/vv/

Original sent

to the following

ADJUTANT GENERAL

SECRETARY

9.5.74

CC

CAV

NEW DELHI

OFFICE

SECRET

Section Officer

Amended

29/9/74

SECRET

D.A.212/94

Sri Niranjan Das'

... Applicant

-VS-

Union of India & Ors.

... Respondents

P R E S E N T

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

For the Applicant ... Mr. M.K. Choudhury,
Mr. B.K. Baishya.

For the Respondents ... Mr. S. Ali, Sr.C.G.S.C.

11.11.94,

Mr B.K.Baishya for the applicant.
Mr S.Ali, Sr.C.G.S.C for the respondents.
The application is admitted. Mr Ali
receives notice for the respondents. He
shall file the memo of appearance. By
consent the application is taken up for
final hearing.

The applicant was appointed as
Casual Khalasi on 14.10.1986 on consolida-
ted pay at the rate of Rs.450/- for the
duration specified in that order. He was
thereafter engaged as ordinary labourer
on daily wage from time to time. From the
table Annexure-4 it is clear that he has
worked for more than 240 days in each
year namely, 1987, 1988, 1989, 1990, 1991
and 1992. In the year 1993 he had worked
for 62 days upto 31.8.1993.

The orders at Annexures 1 and 2
shows that the applicant was appointed
as a casual worker. From the application
it appears that on 14.5.92 he was appoin-
ted as work charged Khalasi in the scale

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contd...



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of Rs.750-940/- on adhoc basis. That order has not been produced. From the particulars given at Annexure-4 it appears that there was a gap in service from 16.10.92 till 1.7.93. We do not know whether on 1.7.93 he was appointed again as a casual worker or as work charged Seasonal Khalasi in the work charge establishment in a pay scale with usual allowances on adhoc basis against a post even purely on temporary basis. The applicant has simply avered that his appointment was sometimes describe (as work charged Khalasi and on some occasions as work charged labourer. According to him he was never ^{treated} better than ~~as~~ a casual labourer.

It appears to us that the applicant can be extended the benefit of the "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" of Government of India which came into effect from 1.9.1993. The material date being 1.9.1993, the order dated 9.5.94 whereunder the applicant was again appointed as Work Charged Seasonal Khalasi may not necessarily come in the way of the applicant for being considered under the scheme if he was working as casual labourer on 1.9.93. Even if on 1.7.93 he was appointed as Work Charged Seasonal Khalasi on adhoc basis that would not in substance ^{be} to make much of a difference for his not looked upon as a casual labourer for the purpose of the scheme. The concerned authority of the respondents however, will examine the position and ascertain as to what was the nature of work of applicant on 1.9.93; if he was casual labourer he shall be entitled to be given the benefit of the scheme. ^{if} he was appoin-

contd....



Att. Secy

29/11/96

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11.11.94 -ted as work charged seasonal khalasi then the authority will consider sympathetically as to whether from the nature of duty he was required to perform he could still be regarded as casual labourer and extended the benefit of the scheme. Subject to the ascertainment of the fact as directed above about the nature of employment on 1.9.93, the respondents are directed to extend the benefit of the scheme including conferment of temporary status upon the applicant forthwith if he is found eligible notwithstanding the order dated 9.5.94. The authority concerned will bear in mind that the label under which a worker may be appointed may not be necessarily determine^{ative} of his eligibility for being covered by this^{the} scheme and workers like applicant should not ordinarily be deprived of the benefit of the scheme. The authority concerned will keep an open mind and take appropriate steps. In the light of observations made above the application is disposed of in above terms.



No order as to costs.

Sd/- M.G. CHAUDHARY
VICE CHAIRMAN

Sd/- G.L. SANGLYINE
MEMBER (ADMN)

Memo No. :

Date :

Copy for information & necessary action to :

- (1) Shri Niranjana Das, resident of Garal, Village Barua para, District Kamrup.
- (2) The Secretary, Ministry of Water Resources, Govt. of India, New Delhi.
- (3) The Chairman, Central Water Commission, Seva Bhawan, R.K. Puram, New Delhi - 66.
- (4) The Executive Engineer, Central Water Commission, Middle Brahmaputra Sub-Division, Guwahati.
- (5) The Deputy Director, W.R. & Flood Forecasting Division No. 1, Central Water Commission, Guwahati-3.

(Signature)
24/11/94
SECTION OFFICER (J)

(Signature)
24/11/94

(Signature)
29/8/94

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Misc. Petition No.123/95 with M.P.107/95 (in O.A.189/94)
(A.Pathak Vs. Union of India & Ors.)

A N D

Misc. Petition No.124/95 with M.P.108/95 (in O.A.212/94)
(Niranjan Das Vs. Union of India & Ors.)

Date of Order: This the 4th Day of January, 1996.

C O R A M :

The Hon'ble Justice Shri M.G.Chaudhari, Vice-Chairman.

The Hon'ble Shri G.L.Sanglyine, Member (Administrative)

Advocate for the original applicants : Shri B.K.Sharma.

Advocate for the original respondents : Shri S.Ali, Sr.C.G.S.C
(In all matters).

O R D E R

CHAUDHARI J. (V.C)

Applicant in O.A.189/94 had been working as Work Charged Seasonal Khalashi. The applicant in O.A.212/94 had been working as casual Khalashi. By our order dated 1.11.94 and 11.11.94 in the respective O.As we had directed the respondents to consider the case of the respective applicants sympathetically under the Scheme.

2. By M.P.Nos.99/95 and 100/95 the respective applicants sought direction for early implementation of above orders. With the expectation that decision will be taken early we disposed of these petitions on 17.10.95. The respondents have filed M.P.107/95 and 108/95 in the respective ^{CASES} explaining their difficulties. The applicants in the respective O.As have filed M.P.123/95 and 124/95 seeking directions under Section 27 read with Rule 24 of Administrative Tribunals Act for direction to the respondents to implement the directions given on 17.10.95.

Attested.
18/02/96

3. In M.P.107/95 and 108/95 the respondents have stated that since the appointment was confined to monsoon season and there are no posts for regular appointment available, the applicants cannot be continued on engagement but a scheme is under finalisation in the CWC/MOWR for granting temporary status in terms of DOPT Circular of September, 1993 to Seasonal Khalasis and when the scheme will be implemented that will redress the grievance of the applicants who will be considered for absorption as per seniority against regular vacancy.

4. In the order passed on 17.10.95 we had expressed the desire that the respondents should take a decision as early as possible and had given liberty to the applicant (in O.A.189/94) to seek direction if necessary after one month if no action was taken as it had appeared to us that the respondents had not seriously considered the case of the applicant in the light of observations made in the order on the O.A. As nothing has resulted the M.P.123/95 has been filed seeking a direction to the respondents to give effect to the order dated 17.10.95. Similar is the position in M.P.124/95 in O.A.212/94.

5. In these cases we could not grant relief in mandatory terms but as we were satisfied that respective applicants deserved to be considered for employment we had directed the respondents to consider their cases sympathetically. Our intention was that till the scheme was implemented and the fate of the applicants was decided one way or the other they should as far as possible be not rendered jobless. However, since the respondents find it difficult to accommodate them till the scheme is finalised we cannot direct them straight away to appoint them. Likewise merely stating that a scheme is being formulated is no solace.

Attes. ed.

29.8.96
Advocate.

Mr Ali, learned Sr.C.G.S.C for the respondents now states that according to his instructions the scheme will be finalised by May, 1996. Once the scheme is finalised then as stated by the respondents the case of the applicants will have to be considered for regular appointment and grant of temporary status having regard to their length of service and in accordance with their seniority among such labourers. Question however is what is to happen till then. Having regard to the overall circumstances and the previous directions we would even now suggest to the respondents to find ways and means to accommodate the applicants on temporary engagement till the scheme is finalised and since we cannot make such a direction in law by way of an order we leave it to the good sense of the respondents making it clear that if they take any such step that will be deemed to be taken on their own and not by way of compulsion under the order of the Tribunal. The difficulty of the respondents in submitting to such an order as it may create serious administrative problem having regard to the large number of similarly placed labourers can well be appreciated. Hence in order to remove any such impression we have made the position clear.

6. We would like to add that it is pointed out by Mr B.K.Sharma that the scheme is being prepared in pursuance of the direction of the Principal Bench and the Principal Bench has directed that the casual employees be continued till the finalisation of the scheme and therefore the respondents are required to act consistently with that order and continue the applicants in the employment. Secondly, he submits that the applicants having become eligible for conferment of temporary status deserve to

Attested.
[Signature]

3. In M.P.107/95 and 108/95 the respondents have stated that since the appointment was confined to monsoon season and there are no posts for regular appointment available, the applicants cannot be continued on engagement but a scheme is under finalisation in the CWC/MOWR for grant of temporary status in terms of DOPT Circular of September, 1993 to Seasonal Khalasis and when the scheme will be implemented that will redress the grievance of the applicants who will be considered for absorption as per seniority against regular vacancy.

4. In the order passed on 17.10.95 we had expressed the desire that the respondents should take a decision as early as possible and had given liberty to the applicant (in C.A.189/94) to seek direction if necessary after one month if no action was taken as it had appeared to us that the respondents had not seriously considered the case of the applicant in the light of observation made in the order on the O.A. As nothing has resulted the M.P.123/95 has been filed seeking a direction to the respondents to give effect to the order dated 17.10.95. Similar is the position in M.P.124/95 in O.A.212/94.

5. In these cases we could not grant relief in mandatory terms but as we were satisfied that respective applicants deserved to be considered for employment we had directed the respondents to consider their cases sympathetically. Our intention was that till the scheme was implemented and the fate of the applicants was decided oneway or the other they should as far as possible be not rendered jobless. However, since the respondents find it difficult to accommodate them till the scheme is finalised we cannot direct them straight away to appoint them. Likewise merely stating that a scheme is being formulated is no solace.

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Mr Ali, learned Sr.C.O.S.C for the respondents now states that according to his instructions the scheme will be finalised by May, 1996. Once the scheme is finalised then as stated by the respondents the case of the applicants will have to be considered for regular appointment and grant of temporary status having regard to their length of service and in accordance with their seniority among such labourers. Question however is what is to happen till then. Having regard to the overall circumstances and the previous directions we would even now suggest to the respondents to find ways and means to accommodate the applicants on temporary engagement till the scheme is finalised and since we cannot make such a direction in law by way of an order we leave it to the good sense of the respondents making it clear that if they take any such step that will be deemed to be taken on their own and not by way of compulsion under the order of the Tribunal. The difficulty of the respondents in submitting to such an order as it may create serious administrative problem having regard to the large number of similarly placed labourers can well be appreciated. Hence in order to remove any such impression we have made the position clear.

6. We would like to add that it is pointed out by Mr B.K.Sharma that the scheme is being prepared in pursuance of the direction of the Principal Bench and the Principal Bench has directed that the casual employees be continued till the finalisation of the scheme and therefore the respondents are required to act consistently with that order and continue the applicants in the employment. Secondly, he submits that the applicants having become eligible for conferment of temporary status deserve to

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be continued till the scheme is implemented. Lastly he submits that the applicants should be considered under the scheme as will be formulated in pursuance of the directions of the Principal Bench but it appears that in M.P.107/95 and M.P.108/95 the respondents ^{are} referring to some other scheme. We record the submission and hope that the respondents will take a serious note of all these factors and consider the case of the applicants in the light of our observations in the order on the O.A. and what is stated herein above. We would like to state that we do not appreciate the delay that is being caused in implementation of the scheme. Such delay would defeat the very spirit of the various orders of the Tribunal. We therefore expect that as stated now the scheme will be implemented by May-June, 1996 and the case of the applicant will be considered soon thereafter.

With the above observations all the four Misc. Petitions are disposed of. No order as to costs.

Copy of the order to be placed separately in each M.P.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)

Certified to be true Copy

प्रमाणित प्रतिलिपि

19/11/95
2/2/96

Section Officer (J)

अध्यापक प्रशासकी (अनुसंधान शाखा)
General Administrative Tribunal
उच्च न्यायालय के अधीन
Gowdhan Bench, Gowdhati-5
पुणे-411 004, पुणे-5

Amc 30
10/2/96

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ANNEXURE- 7

REGISTERED POST

NO.MBD/GAU/WC/ESTT-54(CAT)/95/3363
GOVERNMENT OF INDIA
MIDDLE BRAHMAPUTRA DIVISION
CENTRAL WATER COMMISSION
RAJGARH ROAD : GUWAHATI-781007

DATED THE 20/5 /1995.

To

Shri Bimal Kr.Baishya,
Advocate,
Guwahati High Court,
Bharalumukh, *Sluis Gate East*
Guwahati - 9.

Subject: Legal notice on behalf of Shri Nirranjan Ch.Das,
Casual Khalasi.

Sir,

I am in receipt of your legal notice dated
6th May, 1995.

Following points are intimated for your information

(1) Regarding direction of the Hon'ble Central Administrative Tribunal, Guwahati Bench in O.A.No.206/94, it is informed that the matter has already been sent to the C.W.C. headquarter. The case regarding framing of a scheme for grant of temporary status and regularisation of Work-charged Seasonal/Ad-hoc employee in C.W.C. is still under consideration in consultation with the Ministry of Water Resources and Ministry of Law and Justice and Department of Personnel and Training etc. The case of the applicant shall be considered sympathetically on receipt of Government decision on the scheme.

It is further informed that Shri Nirranjan Ch.Das has already been given employment as Seasonal Khalasi with effect from 15.5.95 and as per information available he has already joined also.

This is for favour of your information please.

Yours faithfully,

A.S.P. Sinha
20/5/95

(A.S.P. SINHA)
EXECUTIVE ENGINEER

nc

Attested.
[Signature]
20/5/95

12.2.97

33

R IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI-5

In Re: -

In the matter of

O.A. No. 223/96

Shri A. Pathak & Ors

V/S

Union of India

In the matter of
Written statement submitted by the
respondents No. 1 to 3

I N D E X

S.No	Description of documents	Page Nos.
1.	Written statement on behalf of Petitioners.	1 to 5

Guwahati
Dated 11th Feb., 1997.

Shaukat Ali
(MD. SHAUKAT ALI) 11/2/97
Sr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati.

R
Q
AN
12/2/97

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

In the matter of

O.A. No.223 of 1996
Shri A.Pathak & Ors.

Vs

Union of India

In the matter of

written statement submitted by the
respondents No. 1 to 3

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 scheme for Grant of Temporary Status and Regularisation of Seasonal work charged Khalasis is being framed, as per the Hon'ble Tribunal's direction issued in OA. No. 1300/94 by the Hon'ble Calcutta Bench including this Hon'ble Bench also. It is further clarified that the Draft scheme has already been circulated to concern ministries and Departments for their comments/observations within a fixed time frame and after the receipt of the same, the same would be placed before the Cabinet immediately for its approval as required under the Transaction of Business rules, as the same is a policy matter.

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

Filed by:

Shankar Lal
11/2/97
MR. SHANKAR ALAL
Sr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

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 the 1993 scheme is not applicable to the seasonal Khalasis engaged in workcharged establishment. The Respondents further beg to state that 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. Sometimes, the applicants were engaged during intervening period prior to 1993 for handling of hydrological data due to exigency of work.

4.7 to 4.9 contents of para 4.7 to 4.9 are not correct and denied. Respondents beg to state that the judgement referred to here pertains to those who have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians on adhoc basis and not to the seasonal Khalasis engaged in workcharged establishment who works for a limited period for a specific work. It is further stated that the seasonal Khalasis are not adhoc employees. It is respectfully stated that the judgement of the Hon'ble Tribunal, Principal Bench, as referred, is not applicable in the facts and circumstances of the present

mk -3.

case. It is further stated that 1993 scheme is also not applicable. It is further stated that as submitted hereinabove the scheme for grant temporary status and regularisation of seasonal Khalasis is not yet finalised, the case of individual applicant would be considered on finalisation of the scheme.

4.10 That with regards to statement made in para 4.10 of the application, the Respondents beg to state that as per nature of job the seasonal Khalasis are engaged during monsoon period i.e. from 15th May to 15th Oct. every year for the purpose of flood forecasting. After 15th Oct. there is absolutely no work of flood forecasting. All the applicants are well aware of this fact that after 15th Oct. they will be disengaged, they have accepted the job being fully aware of this fact. The allegation regarding alleged exploitation by the Respondents, therefore, is not correct. All the applicants are free to choose any other job suitable to them.

4.11 That with regards to statements made in paragraphs 4.11 of the application, the Respondents beg to state that the judgement referred in the paragraph was specifically meant for the employees who have been working as Khalasis, Carpenter, Mistries, Motor Mechanics, Drivers and Electricians on adhoc basis and not to the seasonal Khalasis engaged on workcharged establishment for a specific purpose and for specific period. It is further stated that the seasonal Khalasis are not adhoc employees. As such the said judgement is not applicable in the facts and circumstances of the present case.

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4.12 to 4.14 Contents of Para 4.12 to 4.13 & 4.14 of O.A. are matter of records.

4.15 Contents of para 4.15 are wrong & denied. It is denied that the Respondents have acted illegally, as alleged. It is further denied that they have acted in direct confrontation with the Hon'ble Tribunal's order, as alleged. It is stated that the Respondents have highest regard for the majesty of the Hon'ble Tribunal.

4.16 The with regard to statement made in para 4.16 of the application, the Respondents beg to state that the interim order passed by the Hon'ble Tribunal has already been modified. The Respondents further beg to state that the scheme for grant of temporary status and regularisation of the services of seasonal Khalasis has already been drafted by C.W.C. and Ministry of Water Resources and at present 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.

5. That with regard to statements made in paragraph 5 of the application the Respondents beg to state that 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 fact and as such the application is liable to be dismissed.

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6. That with regard to statements made in paragraph 6 of the application, the Respondents have no comments on them.

7. Contents of para 7 are denied for want of knowledge.

8 & 9 That with regards to statement made in para 8 & 9 of the application regarding relief sought for, the Respondents beg to state that in view of the facts and circumstances stated above the applicants are not entitled to any of the relief sought for and as such their application is liable to be dismissed.

10 to 12. That with regard to statements made in paragraphs 10, 11 & 12 of the application, the Respondents have no comments.

That the Respondents submit that the application is devoid of merits and hence liable to be dismissed.

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...11... day of....., 1997 at Guwahati.

DECLARANT