

10/600

5

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 224/96

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

224196

Sr. P. C. Sharma & Ors. Applicant(s)

Union B. Garden Cor. Respondent(s)

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

Mr. A. K. Choudhury ACSL, 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 346830 Dated 2.7.8.96

10.10.96

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

Adjourned for admission to 14.10.1996.

S. Sharma  
Dy. Registrar 9/10/96

Member

pg

14.10.96

Learned counsel Mr B.K. Sharma for the applicants. Mr A.K. Choudhuri, learned Addl. 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 statements and further orders on 26.11.96.

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

15.10.96

Copy of order dttd 14.10.96 issued to the respondents

Ba

13.11.96

Notice issued to the concerned parties vide D.No. 3717 dt. 13.11.96

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

22/11

Member

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 order on 30.12.1996 as requested by Mr. S.Ali.

*[Signature]*  
Member

1) Notice duly served  
~~on Respondent~~  
~~At 3.4.~~

trd  
w/  
ak/11

18.12.96

Vide order passed today in M.P. 231/96 the interim order dated 14.10.96 has been modified.

Member

17-1-97  
w/ statement has not been filed.

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.

*[Signature]*  
Member

pg

4-2-97

DS filed by *[Signature]* 20.1.97

Resps. As.

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

*[Signature]*  
Member

pg  
w/  
20/11

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

pg

18/12

10.3.97

Let the case be listed on 21.4.1997 for hearing.

  
Member

  
Vice-Chairman

trd

14/3

17-4-97

21.4.97

Let the case be listed for hearing on 2.6.97.

Ready for hearing.

  
Member

  
Vice-Chairman

pg

22/4

2.6.97

The respondents have filed an affidavit in Misc. Petition 94/97 stating inter alia that the scheme has since been approved and it is likely to be notified. In view of the above Mr B.K. Sharma, learned counsel appearing on behalf of the applicant, submits unless the scheme is notified and we come to know about the scheme it will be difficult for <sup>him</sup> 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 3 weeks.

contd..

2.6.97 Mr S.Ali, learned Sr.C.G.S.C and Mr M. 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 to 7.7.97.

W/s Mr. M. K. V. S.  
4/7

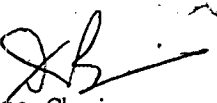
  
Member

  
Vice-Chairman

pg  
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

705  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

( An application u/s 13 of the Administrative Tribunal Act, 1985

Title of the Case : O.A. No. 224 of 1996

<sup>Sarma</sup>  
Shri Pratap Ch. Des & Ors ..... Applicants

Union of India & Ors ..... Respondents

I N D E X

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Copy received on  
A. V. Choudhury  
Asst. Secy  
Admin Secy  
Rm

For Use in Tribunal's Office

Date of filing :- 4.10.96

Designation :- PD 224/96

Signature

Registrar



Finaly in app.  
2.10.76

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH

O.A. No. 224 /96

BETWEEN

1. Shri Pratap Ch. Das Sarma, ~~IAS~~ ✓
2. Sri Bipin Rabha ✓
3. Sri Jainal Ch. Rabha ✓

All are working under the Central Water Commission, Middle Brahmaputra Division, Gauhati-3 and their respective place of posting are as indicated in ANNEXURE I to the O.A.

.....Applicants

-AND-

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, N. Delhi.
2. The Chairman, Central Water Commission, Seva Bhawan, R.K. Puram, N. Delhi.
3. The Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Gauhati-7 (Rajgarh Road.)
4. The Executive Engineer, Central Water Commission, M.O.T., Sub-division, Bamunimaidan, Gauhat-21.

.....Respondents

DETAILS OF THE APPLICATION

....2/-

R

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION HAS BEEN MADE :-

The instant application is not made against any particular order, but has been made seeking a relief towards regularisation of their services. Presently they are under casual employment under the respondents and as per they are under casual employment under the respondents 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 the Section 21 of the Administrative Tribunal Act, 1985.

4. FACTS OF THE CASE :-

4.1 That the applicants are all citizen of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India and 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 Gr. '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 Gr. 'D' post of 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 all similarly situated, their grievances are pertinent to their services under the respondents. All 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 been granted 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 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 contention.

4.4 That the applicants state that as is reflected in Annexure '1' Statement annexed in this O.A., they

Ba

were have been working under the respondents since 1985, 1985, 1988, 1985, 1985, 1990, 1990, 1986, 1986, 1988, 1992 and 1986 respectively. They were so appointed in Gr-D employent 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 Gr. 'D' Posts as work charged seasonal khalasi in the definite scale of pay. Presently, they are given pay scale of Rs 750/- Rs 940/- which is the prescribed pay scale of Gr. '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 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 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 appointments letters and the same are annexed as ANNEXURE 2/A to 2/C.

4.6 The applicants Crave Leave of the Hon'ble Tribunal to produce all the appointment letters pertaining to their employments in Gr. '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 employments will not be disputed by the respondents.

4.6 That the applicants state that even after rendering years of service as Gr. 'D' casual employees, their service have not been regularised and their services are being terminated 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 applicants stand thus all of them are duly sponsored by the employment

*B*

Exchange and selected by the respondents for being appointed as casual and 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 season khalasi. Till date their services are not regularised and they have not been conferred with temporary status as is required to be conferred to under the relevant scheme formulated by the Govt. of India.

the  
That/applicants Crave Leave of this Hon'ble Tribunal to produce a 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 Gr.'D' employees of the Central Water Commission similarly situated at with that of the applicants had approached the Principal Bench of this Hon'ble Tribunal, New Delhi by way of filing various O.A.s wherein some kind of grievances have been raised in the instant were raised. The Principal Bench of this Hon'ble CA.T. by its common judgement dt. 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(i)

" (i) The respondents shall produce 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 scheme 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

*As*

should be given priority in accordance with their length of their services.

ii) Those who have completed 120 days of services should be given temporary status in accordance with the instructions 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 respondents 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.

~~There shall be no order as to costs~~

"There 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 were 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.

....8/-

Rm

(13)

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 applicant transferred to Shillong and he has been continuing as Gr. '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 Commission 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 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 consequetial 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

utilising 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.

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 Gr. 'D' employees, there is no earthly reason as to why the benefit of the said judgement should not extended to the present applicants. The respondents of their own ought to have ~~be~~ extended the benefit of the said judgement to the applicants instead of making them to come under the protective hands of their Tribunal.

4.12 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

....10/-

*Prose*

Further it is stated that by the petitioners that the respondents have acted illegally and have acted in direct confrontation with the Hon'ble Tribunals 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 that 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 therein 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 Gr. 'D' posts.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION :-

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

5.2 For that the applicants have been continued in the employment under the respondents for the last several years, their services are required to be regularised with

*[Handwritten signature]*

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.

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

further declare  
That the applicants /~~state~~ 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 most respectfully prayed that the instant application be admitted records be called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown be pleased to grant the following reason.

8.1 To direct the respondents to regularise the

*Pls*

all consequential benefits.

5.3 For that there being a judgement holding the filed pertaining to the same department and the same subject matter, the Departments and the respondents are duty bound to apply the principles laid down therein 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 reasons 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 is violation of article 14 and 16 of the Constitution of India.

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

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

8.2 To direct the respondents to extend the benefits of Annexure-3 judgement and order of the Principal 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 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 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. :- 09 34 6830

Date :- 29.8.96

14

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~~-15-~~

Payable at :- G.P.O. Gauhati.

12. LIST OF ENCLOSURES :-

As stated in the Index

Verification.....

*Asm*

VERIFICATION

I, Shri Pratap Chandra Sarmah, S/o of Late Dhaneswar Sarmah, aged about 39 years, at present working as Seasonal Khalasi under C.W.C., Division-II, Kulsi Site, R/o Village - Pokhakteki Bari, P.O. Nitayananda District - Barpeta, Assam do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 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 the applicant No. 1 of the instant O.A. and as such I am competent to swear this ~~affida~~ verification. which I signed on this the 22nd Day of September, 1996.

Signature of the applicant

Shri Pratap Ch. Sarmah  
(PRATAP CHANDRA SARMA)

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ANNEXURE-1

<u>NAME</u>	<u>PLACE OF POSTING</u>	<u>WORKING SINCE</u> (May 15th to Oct. 15th)
1.	Pratap Ch. Sharma - Middle Brahmaputra Divn. C.W.C., Rajgarh Rd. Divn. II, Kulshi Site	1986 to 1996
2.	BIPIN RAVA - Middle Brahmaputra Divn. C.W.C. Rajgarh Rd. Divn-II Kulshi Site	1991 to 1996
3.	Jainlal Rava - Middle Brahmaputra, Divn. C.W.C., Rajgarh Rd. Divn. II Kulshi-Site Dudhnoi Site	1986 to 1996

Attested.

  
Advocate.

GRAM : "XENGAUGE"  
GUWAHATI

No. MBD-II/CB/4/Estt.II/95/15-134  
Government Of India  
Middle Brahmaputra Division,  
Central Water Commission,  
Rajgarh Road, Guwahati - 7,

TELE : 560445

Dated the 27/4/95

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 usual allowances as admissible as per rules from time to time.

S/N	Name and address of candidates	Employment, Exchange, Regd. No.	Place of posting	Remarks
1	2	3	4	5
1.	Sri Arun Rajbongshi, C/O, Sri B.C. Das. M. Sub-Division, CWC, Guwahati.	2726/86	G&D site, Sonapur, under MSD, Guwahati.	
2.	Sri Harish Ch. Barman, C/O, Mech. Sub-Divn., CWC, Guwahati-22.	1509/80	do-	
3.	Sri Chandu Ram Das, C/O, Mech. Sub-Divn., CWC, Khanapara, Guwahati-22.	6607/89	do-	
4.	Sri Ananta Kr. Rabha, C/O, Sri Innus Rabha, Vill-Kamarpara, P.O- Daraduri, Goalpara.	726/82	G&D site, Dudhnai, under MSD, Guwahati.	
5.	Sri Putul Khound, Vill-Borkuna, P.O-Gear- uabari (Biswanath Charali) Dist-Sonitpur, Pin-784176.	1071/84	G&D site, Kulsi, under MSD, Guwahati.	
6.	Sri Dinesh Ch. Das, C/O, Smt. Karani bala Das, Dhankar Nagar, A.T. Road, Panbazar, Guwahati-1.	3220/79	G&D site, Dudhnai, under MSD, Guwahati.	
7.	Sri Dilip Ch. Khataniar, Vill-Barjoha Bhatikur, Dist-Nowgoan.	987/85	MSD, CWC, Guwahati-22.	
8.	Sri Bipin Rabha, C/O, Mech. Sub-Divn., CWC, Khanapara, Guwahati-22.	518/93	G&D site, Kulsi, under MSD, Guwahati.	
9.	Sri Rohini Kr. Roy, C/O, Sri Banamali Roy, Vill-Charaimari, P.O- Amjonga, Goalpara, Assam.	1718/79	G&D site, Dudhnai, under MSD, Guwahati.	

Attested.  
27/5/96  
Advocate

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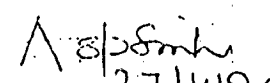
- 10. Sri Jaynal Ch. Rabha, 854/82 G&D site, Dudhnai, Vill-Borpathar, P.O-Chatmatia, Dist-Goalpara. under MSD, Guwahati.
- 11. Sri Pratap Ch. Sharma, 9178/82 -do- C/O, Sri Tarun Ch. Sharma, Arunadoy Press, Silpukhuri, Guwahati-3.
- 12. Sri Ramu Sharma, 8040/92 Mech. Work-Shop, C/O, Mech. Sub-Divn., CWC, Khanapara, Guwahati-22.
- 13. Sri Gadadhar Bharali, 3768/90 Guest House at C/O, Mech. Sub-Divn., CWC, MBD-II, Guwahati. Guwahati-22.
- 14. Sri Promod Ch. Deka, 3064/76 Mech. Sub-Divn., C/O, Mech. Sub-Divn., CWC, Guwahati-22. CWC, Guwahati-22. ( G&D site Sonapur)
- 15. Smt. Mira Das, 4928/91 MSD, Guwahati (com- 6 Mile, Guwahati-22. pilation & checking GDS data)

The appointment is on ad-hoc basis to be effective from 15-5-95 (FN) and is purely temporary and will not continue beyond 14-10-95 (AN), or completion of work whichever is earlier without further notice.

The appointee should produce before joining the post a certificate of physical fitness from a competent authority.

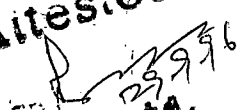
No travelling allowance will be allowed for joining the above appointment.

All the person concern may please report to their respective site on 15-5-95 (FN) positively.

  
 27/4/95  
 A.S.P. SINHA )  
EXECUTIVE ENGINEER

Copy forwarded for information & necessary action to :-

- 1) The A.E., Mech. Sub-Division, CWC, Guwahati. The date of joining of the person concerned may please be intimated to this office in due course.
- 2) Person concerned ( 16 copies ). He should note that there is no chance of regularisation of service in near future.
- 3) The A/B, MBD, CWC, Guwahati-7.
- 4) The D/B, MBD, CWC, Guwahati-7.
- 5) The J.E. (HQ), MBD-II, CWC, Guwahati-22.

**Attested.**  
  
 23/9/96  
**Advocate.**

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI

REGD. AD/SPL MESSENGER

Faridkot House,  
C. P. B. Marg,  
NEW DELHI - 110001  
10/2/94

From

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

18/2/94

To

1. Shri S.M. Shukla,  
Counsel for the applicant 454, Lawyers Chambers,  
Eastern Wing, The Hazari Court, Delhi-54  
OA 223/92 & 884/92
2. Shri B.S. Mainee,  
Counsel for the applicant in OA 1601/92 & 2418/92  
CAT., Bar Room, New Delhi.
3. Shri Jagg Singh,  
Counsel for the respondents in O. 884/92, 223/92 & 1601/92  
CAT., Bar Room, New Delhi.
4. Shri P.P. Khurana,  
Counsel for the respondents in O. 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.

OA 223/92  
O. 884/92  
OA 1601/92  
O. 2418/92

C.A.No.

Applicant (s)

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.

Your's faithfully,

SECTION DEPUTY

Aites.ed.

29.9.96  
Advocate.

- 26 - 89

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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 10<sup>th</sup> 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-II,  
New Roshan Pura, Najafgarh,  
New Delhi.

3. Yash Pal Singh  
S/O Shri Devi Singh,  
WZ-288, Vil. & P.O. Naraina,  
New Delhi.

4. Parmod Kumar  
S/O Shri Bijli Singh  
No. 421, Sewa Nagar,  
New Delhi.

5. Narendra Paswan,  
B-50, Naharpur, Sector 7,  
Rohini, Delhi.

.. .. Applicants.

( through S.N. Shukla, Advocate).

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.

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19.9.96  
Advocate.

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

( through Mr Jog Singh, Advocate).

O.A.No.1601 of 1992

Shri Rajesh Kumar Saini  
s/o Shri Veer Sain Saini  
Workcharged 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 Ujai 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.Khurana in O.A.No.2418 of 1992).

Attested.  
29.9.96  
Advocate.

ORDERB.N.DHOUNDIYAL, MEMBER (A)

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

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

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29.9.96  
Advocates.

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 Patilak (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.

Shri 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. Piana 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

Attested.

Advocate.

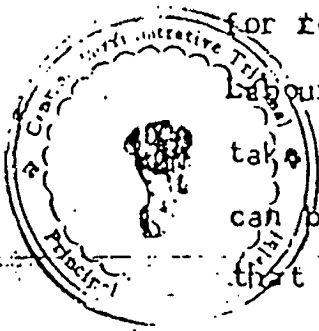
- 28 - 22  
- 28 -

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....."

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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.

10/29/96  
Advocate

-6

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

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

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

5. There shall be no order as to costs.

( B.N.Dhoundiyal )  
Member(A)

( S.K.Dhaon )  
Vice Chairman

/sds/

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13/7/77  
Section Officer

Advocate  
29.9.76

29/5/94

ANNEXURE-4

31

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

- 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.)

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)

- 80 - 28

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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.N. 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 ver 8.8

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 Khilasi,  
under Executive Engineer,  
Central Stores Division,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

Respondent in RA/  
applicant in CA

RA-172/94 in CA-2418/92

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

Attested.

29/9/96  
Advocate.

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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. Hemraj Rai.
- 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:-

- (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;

Attested  
29/2/96  
K. V. Rao

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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 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 31.3.1994. It has also been mentioned that the Ministry of Finance has emphasised surrender of 10% of existing post under W/C Estt. also for declaring 10% post on W/C establishment. They have stated that due to financial constraints and lack of schemes, the applicants were not entitled for any regularisation of their services.

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

Attested  
Advocate

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established principle.

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

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

(B.N. DHONDYAL)  
MEMBER (A)

(S.K. SHARMA)  
VICE CHAIRMAN

/vv/

Original cases in  
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2011/10/13/14/15/16/17/18/19/20/21/22/23/24/25/26/27/28/29/30/31/32/33/34/35/36/37/38/39/40/41/42/43/44/45/46/47/48/49/50/51/52/53/54/55/56/57/58/59/60/61/62/63/64/65/66/67/68/69/70/71/72/73/74/75/76/77/78/79/80/81/82/83/84/85/86/87/88/89/90/91/92/93/94/95/96/97/98/99/100/101/102/103/104/105/106/107/108/109/110/111/112/113/114/115/116/117/118/119/120/121/122/123/124/125/126/127/128/129/130/131/132/133/134/135/136/137/138/139/140/141/142/143/144/145/146/147/148/149/150/151/152/153/154/155/156/157/158/159/160/161/162/163/164/165/166/167/168/169/170/171/172/173/174/175/176/177/178/179/180/181/182/183/184/185/186/187/188/189/190/191/192/193/194/195/196/197/198/199/200/201/202/203/204/205/206/207/208/209/210/211/212/213/214/215/216/217/218/219/220/221/222/223/224/225/226/227/228/229/230/231/232/233/234/235/236/237/238/239/240/241/242/243/244/245/246/247/248/249/250/251/252/253/254/255/256/257/258/259/260/261/262/263/264/265/266/267/268/269/270/271/272/273/274/275/276/277/278/279/280/281/282/283/284/285/286/287/288/289/290/291/292/293/294/295/296/297/298/299/300/301/302/303/304/305/306/307/308/309/310/311/312/313/314/315/316/317/318/319/320/321/322/323/324/325/326/327/328/329/330/331/332/333/334/335/336/337/338/339/340/341/342/343/344/345/346/347/348/349/350/351/352/353/354/355/356/357/358/359/360/361/362/363/364/365/366/367/368/369/370/371/372/373/374/375/376/377/378/379/380/381/382/383/384/385/386/387/388/389/390/391/392/393/394/395/396/397/398/399/400/401/402/403/404/405/406/407/408/409/410/411/412/413/414/415/416/417/418/419/420/421/422/423/424/425/426/427/428/429/430/431/432/433/434/435/436/437/438/439/440/441/442/443/444/445/446/447/448/449/450/451/452/453/454/455/456/457/458/459/460/461/462/463/464/465/466/467/468/469/470/471/472/473/474/475/476/477/478/479/480/481/482/483/484/485/486/487/488/489/490/491/492/493/494/495/496/497/498/499/500/501/502/503/504/505/506/507/508/509/510/511/512/513/514/515/516/517/518/519/520/521/522/523/524/525/526/527/528/529/530/531/532/533/534/535/536/537/538/539/540/541/542/543/544/545/546/547/548/549/550/551/552/553/554/555/556/557/558/559/560/561/562/563/564/565/566/567/568/569/570/571/572/573/574/575/576/577/578/579/580/581/582/583/584/585/586/587/588/589/590/591/592/593/594/595/596/597/598/599/600/601/602/603/604/605/606/607/608/609/610/611/612/613/614/615/616/617/618/619/620/621/622/623/624/625/626/627/628/629/630/631/632/633/634/635/636/637/638/639/640/641/642/643/644/645/646/647/648/649/650/651/652/653/654/655/656/657/658/659/660/661/662/663/664/665/666/667/668/669/670/671/672/673/674/675/676/677/678/679/680/681/682/683/684/685/686/687/688/689/690/691/692/693/694/695/696/697/698/699/700/701/702/703/704/705/706/707/708/709/710/711/712/713/714/715/716/717/718/719/720/721/722/723/724/725/726/727/728/729/730/731/732/733/734/735/736/737/738/739/740/741/742/743/744/745/746/747/748/749/750/751/752/753/754/755/756/757/758/759/760/761/762/763/764/765/766/767/768/769/770/771/772/773/774/775/776/777/778/779/780/781/782/783/784/785/786/787/788/789/790/791/792/793/794/795/796/797/798/799/800/801/802/803/804/805/806/807/808/809/810/811/812/813/814/815/816/817/818/819/820/821/822/823/824/825/826/827/828/829/830/831/832/833/834/835/836/837/838/839/840/841/842/843/844/845/846/847/848/849/850/851/852/853/854/855/856/857/858/859/860/861/862/863/864/865/866/867/868/869/870/871/872/873/874/875/876/877/878/879/880/881/882/883/884/885/886/887/888/889/890/891/892/893/894/895/896/897/898/899/900/901/902/903/904/905/906/907/908/909/910/911/912/913/914/915/916/917/918/919/920/921/922/923/924/925/926/927/928/929/930/931/932/933/934/935/936/937/938/939/940/941/942/943/944/945/946/947/948/949/950/951/952/953/954/955/956/957/958/959/960/961/962/963/964/965/966/967/968/969/970/971/972/973/974/975/976/977/978/979/980/981/982/983/984/985/986/987/988/989/990/991/992/993/994/995/996/997/998/999/1000/1001/1002/1003/1004/1005/1006/1007/1008/1009/1010/1011/1012/1013/1014/1015/1016/1017/1018/1019/1020/1021/1022/1023/1024/1025/1026/1027/1028/1029/1030/1031/1032/1033/1034/1035/1036/1037/1038/1039/1040/1041/1042/1043/1044/1045/1046/1047/1048/1049/1050/1051/1052/1053/1054/1055/1056/1057/1058/1059/1060/1061/1062/1063/1064/1065/1066/1067/1068/1069/1070/1071/1072/1073/1074/1075/1076/1077/1078/1079/1080/1081/1082/1083/1084/1085/1086/1087/1088/1089/1090/1091/1092/1093/1094/1095/1096/1097/1098/1099/1100/1101/1102/1103/1104/1105/1106/1107/1108/1109/1110/1111/1112/1113/1114/1115/1116/1117/1118/1119/1120/1121/1122/1123/1124/1125/1126/1127/1128/1129/1130/1131/1132/1133/1134/1135/1136/1137/1138/1139/1140/1141/1142/1143/1144/1145/1146/1147/1148/1149/1150/1151/1152/1153/1154/1155/1156/1157/1158/1159/1160/1161/1162/1163/1164/1165/1166/1167/1168/1169/1170/1171/1172/1173/1174/1175/1176/1177/1178/1179/1180/1181/1182/1183/1184/1185/1186/1187/1188/1189/1190/1191/1192/1193/1194/1195/1196/1197/1198/1199/1200/1201/1202/1203/1204/1205/1206/1207/1208/1209/1210/1211/1212/1213/1214/1215/1216/1217/1218/1219/1220/1221/1222/1223/1224/1225/1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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI-5

In Re: -

Misc. Petition No. \_\_\_\_\_ 1997.

IN

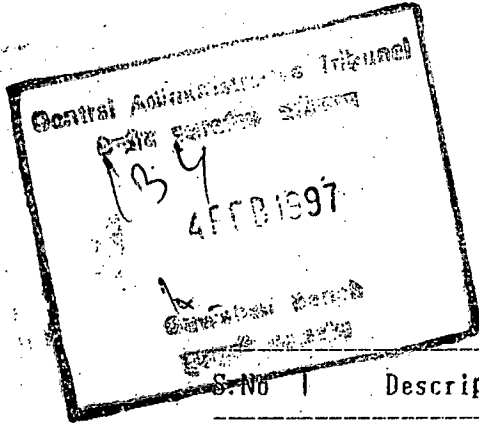
O. A. No. 224/96

Union of India & Ors. .... Petitioners

V/S

Sri P.C. Sharma & Ors. .... Respondents  
(Applicants)

I N D E X



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

Guwahati  
Dated 3<sup>rd</sup> Feb., 1997.

*Shaukat Ali*  
( MD. SHAUKAT ALI ) 3/2/97

Sr. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench, Guwahati.

*Handwritten signature and date: 8/1/98*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

Filed by: *32*  
*C. Haque*  
( MD. SHUKAT ALI ) 3/2/97  
Sr. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

In the matter of

O.A. No. 224 of 1996  
Shri Pratap Ch. Sharma & Ors.

Vs -

Union of India & Ors.

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 statement made by the applicants that "presently they are under casual employment under the Respondents" is not correct. The Respondents further beg to state that all the applicants were engaged as seasonal Khalasis for a 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 departments 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 Khalasis/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 Ministry 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 <sup>in</sup> 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. As per the knowledge of the Respondents, the applicants at sl.no. 2 and 3 were engaged during intervening period in the year 1992 only due to exigency of work for handling of hydrological data.

4.7 to 4.9 Contents of para 4.7 to 4.9 are not correct and denied. Respondents beg to state that the judgment referred to here pertains to those who have been working as Khalasis, Carpenter, 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. The Respondents further beg to state they are not aware of any seasonal Khalasi who has got the benefit of the above judgment and posted to Shillong. The Respondents further beg to state that applicants may indicate the name and his earlier designation of the seasonal Khalasi who is stated to have been posted to Shillong. It is respectfully stated that the judgment of this Hon'ble Tribunal, Principal Bench as referred, is not applicable in the facts & circumstances of the present 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 October every year for the purpose of flood forecasting. After 15th October there is absolutely no work of flood forecasting. All the applicants are well aware of this fact that after 15th October 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 applications, the Respondents beg to state that the judgment 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 judgment is not applicable in the facts and circumstances of the present case.

4.12 Contents of para 4.12 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.

4.13 to 4.15 Missing in the application.

4.16 That 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.

6 That with regard to statements made in paragraphs 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 First day of Feb, 1997 at Guwahati.

V.P. Shiv  
DECLARANT