

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A./T.A No. 237/96.....

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SECTION OFFICER (Judl.)

Salita
31.1.18

No. 2371 96

Sri G. Bhowali Applicant(s)

VS-

Union of India & ors Respondent(s)

Mr. A. Ahmed, M. Chanda, Advocates for the applicant(s)

Mr. S. Ali, Sr. C.G.S.C. Advocates for the Respondent(s)

Office Notes Date Courts' Orders

This application is in form and within time C.F. of Rs. 50/- deposited vide H.O. No. 446071 Dated 9.10.96

[Signature]
By Registrar 10/11/96

Pl. comply the order above.
M/15/10.

16.10.96

copy of order issued to the concerned parties.

20.11.96

For Notice received on 19.11.96. Notice issued to the concerned parties vide D. No 3855 to 3857 DT - 22/11/96.

By 1) Service reports are still awaited
2) W/statement has not been filed
3) Notice duly served on R. No - 2, 3.

14.10.96

Learned counsel Mr M. Chanda for the applicant. Mr S. Ali, learned Sr. C.G.S.C. for the respondents.

Heard Mr Chanda for admission Perused the contents of the application and the relief sought. The application is admitted. Issue notice on the respondent by Registered Post.

List for written statement and further orders on 26.11.96.

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

[Signature]
Member

nkmt
M/15/10

26.11.96

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

Written statement has not been submitted.

List for written statement a futher order on 30.12.96 as request by Mr. S.Ali.

[Signature]
Member

trd
M/26/11

V.

18.12.96 Vide order today in M.P.232/96 the interim order dated 14.10.96 has been modified.

pg

Member

17-1-97

Written statement has not been filed.

30.12.96

Mr A.Ahmed for the applicant. 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 20.1.1997.

Member

pg

20.1.97

Learned counsels Mr M. Chah and Mr A. Ahmed for the applicant. Written statement has not been submitted.

List for written statement and further orders on 12.2.97.

Member

Notice duly served on respondents no. 2 & 3.

W/s statement - has not been filed.

Memorandum of appearance has not been submitted by Sr.C.G.S.C.

pg
M
20/1

12-2-97

Mr.A.Ahmed, 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

W/s filed on 12/2

R.no. 1-3.

pg
M
18/2

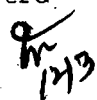
3

10.3.97

Let the case be listed on 21.4.1997 for hearing.


Member


Vice-Chairman


trd

17/3

21.4.97

Let the case be listed for hearing on 2.6.97.


Member


Vice-Chairman

pg

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 we come to know about the scheme it will be difficult for him and for that purpose Mr. Sharma prays for time till the scheme is notified. Mr. M.K.Gupta, learned Addl. C.G.S.C. submits that the scheme will be notified very soon, may be within three weeks. Mr. S.Ali, learned Sr. C.G.S.C. and Mr. M.K.Gupta, learned Addl. C.G.S.C. also agreed that the matter should be heard after the publication of the scheme.

Considering the submissions of the learned counsel for the parties we adjourn the case till 7.7.1997.


Member


Vice-Chairman

w/s. has been filed.

1/7

pg

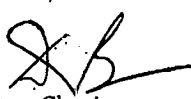
3/6

O.A. No. 237 of 1996

1.7.91

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

(An application under Section 19 of the Administrative
Tribunals Act, 1985).

Title of the Case : O.A. No. 237 of 1996
Sri Gadaghar Bharali.... Applicant
-Versus-
Union of India & ors ... Respondents.

I n d e x

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For use in Tribunal's office:

Date of filing: 10/10/96

Registration No. OA 237/96

REGISTRAR

[Signature]

Received Copy
Salu
Sr. Case
10/10/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH;GUWAHATI.

Filed by
[Signature]
(Adv. AHMED)

D. A. NO. 237 OF 1996

Application under Section 19 of the Central
Administrative Tribunal Act,1985.

BETWEEN

Sri Gadadhad Bharali,
Central Water Commission,
Rest Room of Barak Division,
Six Mile ,Narengi Road,
Khanapara,Guwahati-22.

... Applicant.

AND

Union of India and others.

... Respondents.

Details of the Applicant:

Gadadhar Bharali

- i) Gadadhar Bharali,
Seasonal Khalasi in the
Office of the Central Water Commission
Six Mile, Khanapara, Narengi Road,
Guwahati- 22 .

(Contd.)

Particulars of the Respondents:

- i) Name and/or Designation
Of the Respondents : i) The Union of India
represented by the
Secretary, Water Resourc
New Delhi.
ii) Chairman, Central
Water Commission, SEVA
Bhawan, R.K. Puram, New
Delhi- 66.
iii) Executive Engineer
Central Water Commissi
Barak Division, Six Mil
Narangi Road, Khanapar
Ghy- 22.

... Responden

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE
APPLICATION IS MADE:

Gada Shar Bharal

The application is not directed against any specific order, but it is made for a direction to the respondents to regularise the services of the applicant in terms of judgment passed in U.A. No. 201/93 and the orders in terms of R.A. 13/93 (Miss Anima Talukdar Vs. UOI & Ors.). The applicant being similarly situated prays for similar order in this application .

(Contd.)

2) JURISDICTION OF THE TRIBUNAL:

The applicant declares that the subject matter of this application is within the jurisdiction of this Hon'ble Tribunal .

3) LIMITATION:

The applicant further declares that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunal Act, 1985.

4) FACTS OF THE CASE:

4.1 That the applicant is a citizen of India and therefore, he is entitled to all the rights and protections guaranteed under the Constitution of India.

4.2 That the applicant hails from a very poor family and after passing his 8th standard, he could not pursue studies because of poverty in the family and had to look for a livelihood.

4.3 That the applicant was serving under the Respondents as Casual and/or work charged Seasonal Khalasi/Part time cook since the year 1985. By an order dated 31-5-85 the applicant was selected as W/C seasonal Khalasi in the scale of pay of Rs. 196.232/- w.e.f. 31-5-85 to 15-10-85. By an order dated 7-3-88, the applicant was selected and appointed as skilled Casual Labour @ Rs. 25/- (Rupees Twenty Five only) per day w.e.f. 15-2-88 to 31-3-88 .

Prada Shrivastava

A copy of the aforesaid order dated 31-5-85 is annexed herewith as Annexure-

4.4 That thereafter by an order dated 18-10-89 he was again appointed as Casual Khalasi at a consolidated pay @ Rs. 900/- (Rupees Nine Hundred Only) at R & M Rest Room under Barak Division, Central Commission, Guwahati-22 with effect from 2-10-89 to 30-11-89 .

A copy of the order dated 18-10-89 is annexed here with as Annexure- 2.

4.5 That in the manner stated above, the Respondents utilised the services of the applicant periodically and his services were terminated from time to time. The applicant was also engaged as skilled casual labour/work charged labour, Seasonal Khalasi, Part Time cook in between at times on daily wages basis @Rs. 25/- per day and Rs.30/- per day and at times @ Rs. 900/- and Rs.1000/- per month. By an order dated 14-5-92, the applicant was appointed as Seasonal Khalasi in the scale of Rs. 750-940- on 'ad-hoc' basis. The respondents termed the appointment of the applicant as work -charged Khalasi and on some occasions, it was termed as work-charged labourer. Lastly by order dated 27-4-95, the applicant was again appointed as work -charged seasonal Khalasi in the scale of pay of Rs. 750-940/- . The applicant again by an order dated 6-5-96 appointed as 'Seasonal' W/C Khalasi in the Work charged establishment in the pay scale of Rs. 750-940/- .

Guda Shur Bharat.

(Contd.)

A copy of the aforesaid order dated 6-5-90 is annexed herewith as Annexure- 3.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the other appointment letters to the applicant from time to time at the time of hearing of this application. However, a statement of the period of service the applicant has rendered is annexed as Annexure- 4.

4.6 That the applicant states that although the respondents required the services of the applicant and other such similarly situated persons, for reason best known to the Respondents, the services of the applicant and other such persons were not regularised inspite of repeated demands for regularisation. Be it stated here that the name of the applicant was sponsored by Guwahati Employment Exchange and through such sponsorship, he entered into the services under the respondents.

4.7 That the applicant in this manner has served for more than 240 days in different years. The days the applicant worked in different years are shown below:

<u>Years</u>	<u>Days.</u>
1988	302
1989	356
1990	359
1991	318

Yada dhar Bherah

(Contd.)

<u>Year</u>	<u>Days</u>
1992	342
1993	281
1994	299
1995	248
1996	from 15.5.96 (upto 14.12.96 till today - 4)

4.9 That the applicant states that the Govt. from time to time have issued various circulars stressing the need for regularising all casual employees like that of the applicant. For instance, a circular dated 8-4-91 was issued by the Ministry of Personnel, Government of India, wherein guidelines have been laid down and renewed as regards regularisation of services of casual workers in Group 'D' posts. Another office memorandum dated 10-9-93. was issued by the Ministry of Personnel etc. Govt. of India wherein a scheme was formulated for grant of temporary status and regularisation of casual workers. The applicant states that on the basis of the aforesaid circulars and other guidelines issued by the Government from time to time, the applicant was entitled to be regularised by the respondents; but till date the respondents have not regularised the services of the applicant inspite of repeated persuasion .

Goda Shri Phasal

A copy of the memorandum dated 8-4-91 and Memorandum dated 10-9-93 are annexed herewith as Annexure-5 & 6 respectively.

(Contd.)

4.10 That the applicant states that the respondents ought to have regularised the services of the applicant and other persons working as work-charged seasonal Khalasi and who have rendered long years of service to the respondents on casual, work-charged ad hoc of seasonal basis. The service of the applicant having been utilised in exploitative terms for years, the Government, being a model employer ought to have bestowed the security of regularity of service to the applicant. However, the respondents have instead preferred to engaged the applicant and other such similarly situated persons on exploitative terms rather than regularising their services.

4.11 That the applicant states that some of the work-charged seasonal Khalasi like that of the applicant approached this Hon'ble Tribunal by filing U.A. No. 201/93 (Ms. Anima Talukdar Vs. U.U.I. & Urs.) and U.A. No. 249/93 Aibuddin Ahmed Vs. U.U.I. & Urs). U.A. No. 201/93 was disposed of by an order dated 16-11-93 directing the respondents to consider the appointment of the applicant whenever vacancies occur by maintaining seriality of the retraining list. The U. A. No. 249/92 was disposed of by an order dated 7-12-93 whereby it was directed to appoint the applicant therein as Khalasi against available vacancy and in absence of available regular vacancy or till availability of such vacancy, the respondents shall appoint them as casual workers in the seasonal works. Thereafter Review Application No. 13/93 was preferred in U.A. 201/93 and the said

Gada Char Bhada

Review Application was disposed of on 23-6-94 directing regularisation of the applicant.

A copy of the order in the R. A. No. 13/93 is annexed hereto as Annexure-8.7

4.13 That the applicant states that the applicant being similarly situated with that of the applicant in Review Application No. 13/93, he is also entitled to regularisation and accordingly, made several representations before the respondents for regularisation of the services by extending the same benefit to the applicant. However, the respondents have not regularised the services of the applicant till date.

A copy of one such representation dated 16-8-95 and its forwarding letter dtd. 16-8-95 are annexed hereto as Annexure-8.8 and 8.9 respectively .

4.14 That the applicant states that he having served under the respondents for a long period as work charged seasonal khalasi and the respondents having utilised his services in exploitative terms it was legitimate expectation of the applicant to get his service regularised . The applicant being similarly situated to that of the applicant in R.A. No. 13/93, the same judgment will be squarely applicable to the applicant, he being similarly circumstanced. The respondents ought to have given him the same benefit without compelling the appli-

Gada Shri Bharal

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applicant to approach this Hon'ble Tribunal. The Central Government being the model employer ought to extend the benefit to the applicant instead of making him to come over to the Court. However, since the Respondents have turned a deaf ear to the prayer of the applicant, the applicant has been constrained to approach this Hon'ble Tribunal for regularising his services in terms of the Judgment passed in case of similarly circumstanced incumbents .

4.15 That the applicant states that the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No.223 of 1992, O.A. No. 884/92, O.A. No. 1601/92, O.A. No. 2246/92 and O.A. No. 2418/92 filed by Khalasis, Carpenters, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K. Puram, New Delhi by a common Judgment dated 10-2-94 disposed all the applications with the following directions :

i) The respondents shall prepare a scheme for retention and regularisation of the casual labourers employed by them. For regularisation, all those, who have completed 240 days of service in two consecutive years, should be given priority in accordance with their length of service:

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

Gurda Shari Ghatal.

Department of personnel from time to time. After completion of the required period of service, they should be considered for regularisation .

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

The Review application filed by the Respondent against the Judgment dated 10-2-94 being R.A. No. 165/94 in O.A. No. 2246/92, R.A. 171/94 in O.A. No. 1601/92 and O.A. 172/94, in O.A. 2418/92 was dismissed by the Central Administrative Tribunal, Principal Bench, New Delhi by a common judgment dated 19-5-94.

A copy of the order dated 19-5-94 is annexed herewith as Annexure- 10.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

5.1 For that the applicant being similarly placed to the applicant in O.A. No. 201/93, 245/93 and 249/ and the Review Application therein, the same benefit ought to have been extended to the applicant.

5.2 For that the respondents having utilised the services of the applicant in exploitative terms his services ought to have been regularised .

(Contd.)

10

5.3 For that the applicant's services are terminated from time to time by giving artificial breaks all these years depriving the applicant from continuous employment and emoluments, therefore, his services are required to be regularised with effect from his initial date of work-charged employment with all consequential benefits.

5.4 For that there being vacancy under the respondents to accommodate the applicant on regular basis, the respondents are required to be directed to regularise the services of the applicant giving him all benefits retrospectively.

5.5 For that the applicant has been discriminated against any persons who are not serving on and/or casual basis are appointed from outside the state depriving the claim of the applicant which cannot stand the test of judicial scrutiny .

5.6 For that the respondents have deprived the applicant from his legitimate claim of regularisation in derogation of the circulars and guidelines issued by the Government for such regularisation .

Gada Amar Bhargava 5.7 That that the Union of India being a model employer the respondents ought to have given the benefits of regularisation to the applicant without the applicant asking for it.

5.8 For that the applicant having served under the respondents in exploitative terms for such a long period due to his utter poverty, he has lost his most valuable years in life and has crossed the age for appointment in other Central Govt. job. Hence if the respondents are not directed to appoint the applicant on regular basis, grave prejudice will be perpetrated on the applicant and he will not be able to get any employment elsewhere.

5.9 For that the action of the respondents are illegal, arbitrary, and not sustainable in law.

6. DETAILS OF REMEDIES EXHAUSTED:

The applicant declares that he has taken recourse to all the remedies available to him under the relevant service rules and he has not been granted the benefit of the regularisation by the respondents inspite of submission of representation.

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

The applicant further declares that the matter regarding which the application has been filed is not pending before any court of law or any authority of any other Branch of the Tribunal.

8. RELIEFS SOUGHT :

On the facts and circumstances, the applicant prays for the following reliefs :

(Contd.)

Gada Charan Sharma

- 18
- i) A direction to the respondents to regularise the services of the applicant giving him the benefit of regularisation from date of his initial appointment on work charged basis with all consequential benefits.
 - ii) A declaration that the applicant earned temporary status from 10-9-93.
 - iii) Any other relief or reliefs to which the applicant is entitled under law and equity.
 - iv) Cost of the application .

9. INTERIM ORDER PRAYED FOR:

The applicant states that his service has sought to be terminated on 15-10-96 although there is requirement as well as vacancy to accommodate the applicant. As such, in the interim, the respondents may be directed to utilise the services of the applicant on work-charged/casual basis till regularisation of the services, and not to terminate his service.

10. PARTICULARS OF THE I.P.O.

- i) I.P.O. No. : 8 1144071
- ii) Date : 9.10.96
- iii) Payable at : Guwahati.

11. LIST OF ENCLOSURES:

As stated in the Index.

.. Verification

Guada Anur Bharal.

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

I , Sri Gadadhar Bharali, aged about 32 years, resident of Amdah village, the abovenamed applicant, do hereby verify and state that the statements made in paragraphs 1 to and 11 true to my knowledge, those made in paragraph 5 are true to my legal advise and I have not suppressed any material facts.

And I sign this verification on this the 10 th day of October, 1996 at Guwahati.

Sri gadadhar Bharali
Declarant

NO. CFF/WC/Estt-24-A/85/
 Government of India
 Central Water Commission
 W.R. & Flood Forecasting Division-1,
 Pub-Saranie, Rajgarh Road Guwahati-3.

Dated, Guwahati the 31/5 /85.

MEMORANDUM

The following candidates are hereby offered appointment as W/C Seasonal Khalasi in the Scale of Rs. 196-3-220-10-3-232/- with usual allowances of the rates admissible under rules and subject to the conditions laid down in the rules and orders governing in grant such allowances in force from time to time.

Sl. No.	Name & Address.	Employment Exchange Regd. No.	Place of posting.
1.	Shri Dilip Sarkar, Vill. Dewaikuchi P.O. Barpeta Dist. Barpeta.	Barpeta No. 520/83	As directed by AE/Barpeta Road.
2.	Shri Godadhar Bharali Vill. Amdah, P.O. Amdah Dist. Barpeta.	Barpeta No. 626/82	-do-
3.	Shri Kanak Ch. Das Vill. Sunderidia, P.O. Pubhali, Dist. Barpeta.	Barpeta No. 1910/78	-do-
4.	Shri Tikendrajit Daimary Vill. Khaliaguri P.O. Sonafully, Dist. Barpeta.	Barpeta No. 3165/82	-do-
5.	Shri Dayal Ch. Daimary Vill. Khalepara P.O. Sonafully, Dist. Barpeta.	Barpeta No. 1638/80	-do-

The appointments are on adhoc basis and are purely temporary and will not continue beyond 15/10/85 (A.N.) or completion of the works which ever is earlier without further notice.

If the candidate accepts the offer of appointment on the above terms, he should report himself for duty as directed by Asstt. Engineer, WR&FF Sub-Division, CWC, Barpeta Road on or before 15-6-85 F.M. otherwise this offer will be treated as cancelled.

No T.A., D.A. etc. is admissible to join the new appointment.

(A. CHAKRABORTY)
 DEPUTY DIRECTOR.

Copy forwarded for information & necessary action to:-

- 1) The Asstt. Engineer, CFF Sub-Division, CWC, Barpeta Road. Further posting order may be issued from his end under intimate to this office. The joining report in original may be sent to this office.
- 2) The Accounts Branch, WR&FFD-1, CWC, Guwahati-3.
- 3) The Employment Officer, Barpeta.
- 4) Lett-24.

Copy in Concern

Attested
 [Signature]
 Advocate

(A. CHAKRABORTY)

GRAM: "XERGAUGE"
GUWAHATI

No. A-16021/3/89-Ext/ 3261-64
Government of India
Central Water Commission
Barak Division : Six Mile
Narengi Road : Khanapara
Guwahati : 22.

Dated Guwahati the 12/10/1989

OFFICE ORDER

Shri G. Bharali is hereby appointed as casual khalasi @ Rs. 900/- per month w.e.f. 2-10-89 to 30-11-89.

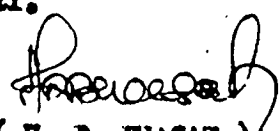
His pay is chargeable to RSM of Rest Room (80 key). The appointment is purely on temporary basis. His appointment will be terminable at any time without assigning any reason.

No. F.A. will be admissible for joining duty. The period of his service will not count for seniority.

(H. R. BHACAT)
EXECUTIVE ENGINEER

Copy for information and necessary action to :-

1. The Asstt. Engineer, Mechanical Sub-Division, C.W.C. Guwahati.
2. The Incharge, Rest Room, Barak Division, C.W.C. Guwahati.
3. The Account Baroh, Barak Division, C.W.C., Guwahati.
4. Shri G. Bharali through the Asstt. Engineer, Mechanical Sub-Division, C.W.C., Guwahati.


(H. R. BHACAT)
EXECUTIVE ENGINEER

Attested
Sd/-
Advocate

GRAM : "FORECAST"
GUWAHATINo. MBD-II/CB/Estt-II/96/ 676-701
Government Of India
Middle Brahmaputra Division,
Central Water Commission
Rajgarh Road, Guwahati - 7,TELE : 560445
541077

Dated Guwahati, the 6/5/96,

MEMORANDUM

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

S/N	Name & Address of candidates	Employment, Exchange Regd. No.	Place of posting	Remark
(1)	(2)	(3)	(4)	(5)
1.	Sri Arun Rajbongshi, C/O Sri B.C.Das, M.Sub-Divn., 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	G&D site, Kulsi, under MSD, Guwahati.	
3.	Sri Chandi Ram Das, C/O Mech. Sub-Divn., CWC, Guwahati-22.	6607/89	G&D site, Dudhnai under MSD, Guwahati.	
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.	

Contd.... 2/-

Attested
Advocate

(1) (2) (3) (4) (5)

- 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 G&D site, Kulsi, C/O Sri Tarun Ch. Sharma, under MSD, Guwahati. Arunadoy Press, Silpukhuri, Guwahati-3.
- 12. Sri Ramu Sharma, 8040/92 Mech. Work-shop, Ulubari, Guwahati-7. Guwahati-22.
- 13. Sri Gadadhar Bharali, 3768/90 Guest House at MBD-II Daranda, Panjabari Road, Guwahati-22. Guwahati-22.
- 14. Sri Promod Ch. Deka, 3064/76 Mech. Sub-Divn., C&C, Six mile, Guwahati-22. Guwahati-22 (G&D site-Sonapur).
- 15. Smt. Mira Das, 4928/91 MSD, Guwahati (Compilation & checking of GDS data). Six mile, Khanapara Guwahati-22.
- 16. Miss Purnima Das, W/184/83 Data Cell under MSD, (Compilation of Data) C&C, Guwahati-22. Kamakhya Colony, Guwahati-12.
- 17. ✓ Sri Dina Ram Gogoi, 13158/91 -do- -do- Daranda, Panjabari Road, Six mile, Khanapara, Guwahati.
- 18. Sri Dharmeswar Das, 4408/82 G&D site, Kulsi under MSD, Guwahati-22. Six mile, Khanapara, Guwahati-22.
- 19. ✓ Md. Rahmat Ali, 2053/82 G&D site, Dudhnai, Vill-Bhagat Kuchi, under MSD, Guwahati-22. P.O-Rangia, Dist.-Kamrup, Assam.

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

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

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

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

Attested
Asst. Secy
Asst. Secy

Cont..... 3/-

V.P. Shiv
6.5.96
(V. P. SHIV)
EXECUTIVE ENGINEER

4/5/96

- 19 -

- 1 -

<u>Working period</u>	<u>No. of days</u>	<u>Appointed as</u>	<u>Wage Rate</u>
<u>1988</u>			
15-2-88 to 31-3-88	45	Skilled Casual Labour	Rs.25/-per
2-4-88 to 31-5-88	45	- do -	-do-
2-6-88 to 30-7-88	45	- do -	Rs.30/-per
1-8-88 to 28-9-88	47	- do -	-do-
30-9-88 to 27-11-88	47	- do -	-do-
17-10-88 to 15-12-88	58	- do -	-do-
17-12-88 to 31-12-88	15	- do -	-do-
	<u>302</u>		
<u>1985</u>			
31-5-85 to 15-10-85	135	W/c Seasonal Khalasi	Rs.196-232 (Seale).
<u>1989</u>			
1-1-89 to 31-1-89	31	Skilled Casual labour	Rs.30/-per
2-2-89 to 31-3-89	59	-do-	-do-
2-4-89 to 31-5-89	59	-do-	-do-
2-6-89 to 31-7-89	59	-do-	-do-
2-8-89 to 30-9-89	59	-do-	-do-
2-10-89 to 30-11-89	59	Casual Khalasi	Rs 900/- p
2-12-89 to 31-12-89	30	Skilled Casual labour	Rs 30/- pe
	<u>356</u>		
<u>1990</u>			
1-1-90 to 29-1-90	29	Skilled labour	Rs.30/-per
1-4-90 to 29-5-90	59	Skilled Casual Labour	-do-
31-5-90 to 28-7-90	59	W/C Labour	Rs.900/-p.
30-7-90 to 26-9-90	59	-do-	-do-
28-9-90 to 25-11-90	59	-do-	-do-
27-11-90 to 31-12-90	35	-do-	-do-
	<u>359.</u>		

(Contd.)

Attested
 Full &
 Advocate

1991

1-1-91 to 24-1-91	24	W/C Labour	Rs.900/-per month.
26-1-91 to 25-3-91	59	-do-	-do-
27-3-91 to 24-5-91	59	-do-	-do-
26-5-91 to 22-7-91	59	-do-	xdxx Rs.1000/- p.m
25-8-91 to 21-9-91	59	-do-	-do-
23-9-91 to 19-11-91	58	-do-	-do-

318

1992

18-1-92 to 16-2-92	59	W/C Labour	Rs.1000/- permonth
18-3-92 to 15-5-92	59	-do-	-do-
16-5-92 to 15-10-92	150	Seasonal Kha- lesi	Rs.750-940/-(Scale
17-10-92 to 15-12-92	59	W/C Labour	Rs.30/-per day
17-12-92 to 31-12-92	15	-do-	-do-

342

1993

1-1-93 to . 31-1-93	31	W/C Labour	Rs.30/-per day
2-2-93 to 28-2-93	27	-do-	-do-
2-3-93 to 13-5-93	73	-do-	-do-
15-9-93 to 15-10-93	150	Seasonal Khalasi	Rs.750/-940/-

281

1994

14-2-94 to 13-5-94	89	Part time cook	Rs. 750/- per mon
16-5-94 to 15-10-94	150	Seasonal Khalasi	Rs. 750/- 940/-
1-11-94 to 31-12-94	60	Part time cook	Rs.750/-p.m.

299

<u>1995</u> 1-1-95 to 28-1-95	28	-do-	- do-
30-1-95 to 29-4-95	89	-do-	-do-
2-5-95 to 12-5-95	11	-do-	-do-
15-5-95 to 14-10-95	150	Seasonal Kha- lesi	Rs.750/- -940/-

278

*Attested
Advocate*

- 21 -

No.49014/4/90-Estt.(C)
 Government of India
 Ministry of Personnel,
 Public Grievances & Pension
 [Department of Personnel & Training]

New Delhi the 8th April, 1991

OFFICE MEMORANDUM

Sub:-regularisation of services of casual workers in Group, 'D' posts - Relaxation of employment exchange procedure and upper age limit.

The undersigned is directed to refer to this Department's OM No.49014/4/77-Estt.(C) dated 21st March, 1979 wherein the conditions for regularisation of casual workers against Group 'D' posts were prescribed. The policy with regard to engagement and remuneration of casual workers in Central Government offices has been reviewed from time to time and detailed guidelines in the matter were issued vide OM No.49014/2/86-Estt.(C) dated 7th June, 1988.

2. Requests have now been received from various Ministries/ Departments for allowing relaxation in the conditions of upper age limit and sponsorship through employment exchange for regularisation of such casual employees against Group 'D' posts, who were recruited prior to 7.6.88, i.e., date of issue of guidelines. The matter has been considered and keeping in view the fact that the casual employees belong to the economically weaker section of the society and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the Director General Employment & Training, Ministry of Labour, that casual workers recruited before 7.6.88 and who are in service on the date of issue of these instructions, may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through employment exchange and had crossed the upper age limit prescribed for the post, provided they are otherwise eligible for regular appointment in all other respects.

3. It is once again reiterated that recruitment of casual workers in Central Government offices may be regulated strictly in accordance with the guidelines contained in this Department's OM No.49014/2/86-Estt.(C) dated 7.6.88. Cases of neglect of these instructions should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

Attested.

Advocate.

22 -
- 2 -

4. Ministry of Finance etc. are requested to bring the contents of this OM to the notice of all the appointing authorities under their respective administrative control.

(Signature)

(M.S. Bhatt)
Deputy Secretary to the Government of India

To
All Ministries/Departments/Offices of the Government of India as per the standard list.

No. 49014/4/90-Estt.(C) New Delhi, dated, the 8th April, 1991

A copy is forwarded for information and necessary action to:-

1. All the attached and subordinate offices of the Ministry of Home Affairs and the Ministry of Personnel, Public Grievances and Pensions.
2. Comptroller and Auditor General of India with 200 spare copies.
3. Ministry of Finance (Controller General of Accounts), Lot Bhyak Bhawan, New Delhi.
4. Ministry of Finance (Department of Expenditure).
5. Chief Controller of Accounts/Controller of Accounts of all Ministries & Departments of the Government of India.
6. All Officers and Sections of MMA and the Ministry of Personnel, Public Grievances & Pensions.
7. The Ministry of Labour, DSE&I, w.r.t. their D.O. letter No. DSE&I-U.11014/1/91-E.E.1 dated 19th February, 1991.
8. Union Public Service Commission, New Delhi.

(Signature)

(M.S. Bhatt)
Deputy Secretary to the Government of India.

Attested.
(Signature)
Advocate.

Annexure- 6

Copy of O.M. No. 51016/2/90-Estt.(C) dated 10-9-93 from Ministry of Personnel, P.G. and Pensions (Department of Personnel & Training).

Sub: Grant of temporary status and regularisation of casual workers formulation of scheme in pursuance of the CAT, Principal Bench, New Delhi, judgment dated 16th Feb, 1990 in the case of Shri Raj Kamal & others V. UOI.

The guidelines in the matter of recruitment of persons on daily-wage basis in Central Government Offices were issued vide this Department's O.M. 49014 2/86-Estt.(C) dated 7-6-88. The policy has further been reviewed in the light of the judgment of the CAT, Principal Bench, New Delhi delivered on 16-2-90 in the writ petition filed by Sri Raj Kamal and others Vs. Union of India and it has been decided that while the existing guidelines contained in O.M. dated 7-6-88 may continue to be followed, the grant of temporary status to the casual employees, who are presently employed and have rendered one year of continuous service in Central Government offices other than Department of Telecom, Posts and Railways may be regulated by the Scheme as appended.

2. Ministry of Finance etc. are requested to bring the scheme to the notice of appointing authority under the administrative control and ensure that recruitment of casual employees is done in accordance with the guidelines contained in Office Memorandum dated 7-6-1988. Cases of negligence should be viewed seriously and brought to the notice of appropriate authorities for taking prompt and suitable action.

(Contd.)

Attest
Advocate

Annexure- A

Department of Personnel & Training ,Casual Labourers
(Grant of Temporary Status and Regularisation) Scheme

1. This Scheme shall be called "Casual Labourers
(Grant of Temporary Status and Regularisation) Scheme
of Government of India, 1993".

2. This Scheme will come into force wef 1-9-1993.

3. This scheme is applicable to casual labourers in
employment of the Ministries/Departments of Govern-
ment of India and their attached and subordinate offi-
on the date of issue of these orders. But it shall no
be applicable to casual workers in Railways, Department
of Telecommunication and Department of Posts who al-
ready have their own schemes.

4. Temporary status:

i) Temporary status would be conferred on all casual
labourers who are in employment on the date of
issue of this O.M. and who have rendered a conti-
nuous service of atleast one year, which means
that they must have been engaged for a period of
at least 240 days (206 days in the case of offi-
ces observing 5 days week).

ii) Such conferment of temporary status would be
without reference to the creation/availability
of regular Group 'D' posts.

iii) Conferment of temporary status on a casual
labourer would not involve any change in his
duties and responsibilities. The engagement will
be on daily rates of pay on need basis. He may be
deployed anywhere within the recruitment unit/
territorial circle on the basis of availability
of work.

(Contd.)

Attested
Sd/-
Shrivastava

- iv) Such casual labourers who acquire temporary status will not however be brought on to the permanent establishment unless they are selected through regular selection process for Group 'D' posts.
- 5. Temporary status would entitle the casual labour to the following benefits.
 - i) Wages at daily rates with reference to the minimum of the pay scale for a corresponding regular group 'D' official including DA HRA and CCA.
 - ii) Benefits ~~for~~ of increments at the same rate as applicable to a Group D employee would be taken into account for calculating pro-rata wages for every one year of service subject to performance of duty for atleast 240 days (206 days in administrative offices observing 5 days week in the year from the date of conferment of temporary status .
 - iii) Leave entitlement will be on a pro-rata basis at the rate of one day for every 10 days of work, casual or any other kind of leave, except maternal leave, will not be admissible they will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefits of encashment of leave on termination of service for any reason or on ~~the~~ their quitting service.
 - iv) Maternity leave to lady casual labourers as admissible to regular Group 'D' employees will be allowed.

*Attested
J. S. S.
Advoat*

- v) 50% of the service rendered under Temporary status would be counted for the purpose of retirement benefits after their regularisation.
 - vi) After rendering three years' continuous service after conferment of temporary status, the casual labourers would be treated as par with temporary Group -D employees for the purpose of contribution to the General Provident Fund and would also further be eligible for the grant of Festival Advance Flood Advance on the same conditions as are applicable to temporary Group D employees, provided they furnish two sureties from permanent Govt. Servants of their Department.
 - vii) Until they are regularised, they would be entitled to productivity Linked Bonus/Adhoc bonus only at the rate as applicable to casual labourers.
6. No benefits other than those specified above will be admissible to casual labourer with temporary status. However, if any additional benefits are admissible to casual workers working in industrial establishments in view of provisions of Industrial Dispute Act, they shall continue to be admissible to such casual labourers.
7. Despite conferment of temporary status, the services of a casual labourers may be dispended with by giving a notice of one month in writing . A casual labour with temporary status can also quit service by giving a written notice of one month . The wages for the notice period will be payable only for the days on which such casual worker is engaged on work.

Attest
Sd/-
Advocate

~~27~~

8. Procedure for filling up of Group D posts:

Two out of every three vacancies in Group D cadres in respective offices where the casual labourer have been working would be filled up as per extent recruitment rules and in accordance with the instructions issued by Department of personnel & Training from amongst casual workers with temporary status. However, regular Group 'D' staff rendered surplus for any reason will have prior, claim for absorption against existing/~~future~~ future vacancies. In case of illiterate casual labourers or those who fail to fulfil the minimum qualification prescribed for post regularisation will be considered only against those posts in respect of which literacy or lack of minimum qualification will not be a requisite qualification. They could be allowed age relaxation equivalent to the period for which they have worked continuously as casual labour.

9. On regularisation of casual worker with temporary status, no substitute in his place will be appointed as was not holding any post. Violation of this should be viewed very seriously and attention of the appropriate authorities should be drawn to such cases for suitable disciplinary action against the officers violating these instructions.

10) In future, the guidelines as contained in this Department's O.M. dated 7-6-88 should be followed strictly in the matter of engagement of casual employ in Central Government offices.

Attest
AMAL
Advocate

(Contd.)

11. Department of Personnel & Training will have the power to make amendments or relax any of the provisions in the scheme that may be considered necessary from time to time.

.....

Attested
Sd/-
Advoent

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Review Application No. 13 of 1993

Date of decision: This the 28th day of June 1994

Hon'ble Justice Shri S. Haque, Vice-Chairman

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

Miss Anima Talukdar

.... Applicant

By Advocate Shri B.K. Sharma and
Shri M.K. Choudhury

-versus-

Union of India and Others

.... Respondents

By Advocate Shri S. Ali, Sr. C.G.S.C.

....



Attest
Advocate

Smt Anima Talukdar has filed this Review Application praying to convert the order dated 16.11.1993 of O.A.No.201/93 into a direction to regularise her service in Group 'D' post on the ground that the relevant office memorandum/circulars concerning regularisation of services of casual employees could not be placed before the Tribunal on 16.11.1993. Copies of the office memorandum have been annexed with the Review Application. The respondents resisted the prayer for review by filing written objection stating that the applicant became a retrenched worker and can get reappointment in order of seriality/preference in the retrenched workers list.

2. The applicant was serving as Work Charge Khalasi (Casual Worker) in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984. The last appointment order under Memorandum No.MBD/WC/ESTT-24(A)/93/3158-71 dated 4.5.1993 indicated that the appointment was adhoc and would not continue beyond 15.10.1993. Therefore, she filed that application(O.A.No.201/93) for regularisation of service. Assuming the applicant to be a retrenched employee, the Tribunal vide order dated 16.11.1993 disposed of O.A.No.201/93 directing the respondents to consider her appointment against available vacancy in order of seriality of retrenched persons list.

3. Learned counsel Mr B.K. Sharma on behalf of the applicant submits that she had acquired temporary status by serving for 240 days prior to 7.6.1988 in one year and thereafter also she served in successive years similarly and thereby became eligible for regularisation



Attested
[Signature]
Advocate

in Group 'D' post. Relevant office memorandum/circulars have been referred to in support of his submissions. Learned Sr. C.G.S.C. Mr S. Ali submits that she was not eligible for regularisation and can only be considered for reengagement in order of preference in the retrenched workers list. The policies in the office memorandum/circulars referred to in this case have not been disputed.

4. The office memorandum No.49014/4/90-Estt(C) dated New Delhi the 8.4.1991 of the Government of India, Ministry of Personnel, Public Grievances and Pension relates to Regularisation of Services of Casual Workers in Group 'D' posts - Relaxation of Employment Exchange Procedure and Upper Age limit. This has referred to O.M.No.49014/4/77-Estt(C) dated 21.3.1979 and further expressed that the previous policies with regard to engagements, remuneration and regularisation of Casual Workers in Central Government Offices have been reviewed from time to time and detailed guidelines in these matters were issued vide office memorandum No.49014/2/86-Estt(C) dated 7.6.1988. It also contained that in view of the fact that the Casual Employees belong to the economically weaker sections of the society and termination of their services would naturally cause undue hardship and therefore, as a one-time measure it was decided that casual workers recruited before 7.6.1988 and who are in service on the date of issue of these instructions may be considered for regular appointment to Group 'D' post, in terms of general instructions, even if they are recruited otherwise than through the Employment Exchange and had crossed upper age limit prescribed for the post, provided that they are otherwise eligible for regular appointment in all other aspects. It was further reiterated that....



Attested
Sd/-
Advocate

that recruitment of casual workers in Central Government offices are to be regulated strictly in accordance with the guidelines contained in the department's O.M.No.49014/2/86-Estt(C) dated 7.6.1988.

5. It was further notified vide office memorandum No.51016/2/90-Estt(C) dated New Delhi the 10.9.1993 that the policy under O.M. dated 7.6.1988 had further been reviewed in the light of the judgment of C.A.T., New Delhi dated 16.2.1990, wherein it was decided that while the existing guidelines in O.M. dated 7.6.1988 may continue to be followed, the grant of temporary status to the casual employees who are presently employed and have rendered one year of continuous service in Central Government offices (excluding Telecom, Posts and Railways) may be regulated by the scheme, namely, 'Casual Labourers (Grant of Temporary Status of Regulation Scheme) of Government of India 1993' of the department of Personnel and Training which came into force with effect from 1.9.1993. It was specifically mentioned in the O.M. dated 10.9.1993 (para 2) that the appointing authority should ensure that recruitment of casual workers is done in accordance with the guidelines under O.M. dated 7.6.1988. In Clauses 4(I) and 4(II) of the Scheme 1993 provide that temporary status would be conferred on all casual labourers who are in employment on 10.9.1993 and who have rendered a continuous service on at least one year, i.e. engaged for at least 240 days (206 days for offices observing 5 days week); and that such acquirement of temporary status would be without reference to the creation/availability of regular Group 'D' posts. The instructions in the Scheme 1993 have conferred/
declared....



Attested
[Signature]
[Signature]

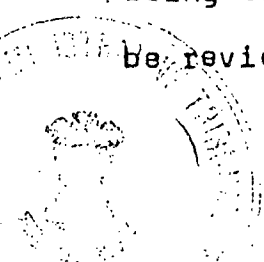
declared the right and privileges/benefits to the casual workers including the procedure of regularisation in Group 'D' posts. All policies/provisions in the casual labourers Scheme of 1993 are in addition to the guidelines in O.M. dated 7.6.1988.

6. The applicant, Smt A. Talukdar did serve under the respondents in the Central Water Commission, Middle Brahmaputra Division, Guwahati since 1984 and her periods (days) of service in every year are as under:

1984	:	294 days	1989	-	390 days
1985 - 1986	:	245 days	1990	-	340 days
1987	:	330 days	1991	-	330 days.
1988	:	240 days			

In 1992 and 1993 also she served similarly under the respondents. But the appointing authority made artificial breaks in her service periods in order to delink continuity of service to her disadvantage. Such breaks cannot be encouraged, because it will be to the disadvantage of a casual labourer in service and may defeat his/her right and privilege including right of regularisation in service granted by the office memorandum/circulars issued by the Central Government from time to time for protection and privileges for casual labourers. We treat her entire service period as in continuity in each year in order to confer temporary status to her. She had worked for 240 days in a year prior to 7.6.1988 and thereafter also she worked similarly in successive years and thereby acquired temporary status. She became eligible for regularisation in terms of O.M. dated 10.9.1993/Scheme 1993 referred to above. She was not retrenched employee as claimed by the respondents. This being the position, our order dated 16.11.1993 deserves to be reviewed.

Attested
[Signature]
 Advocate



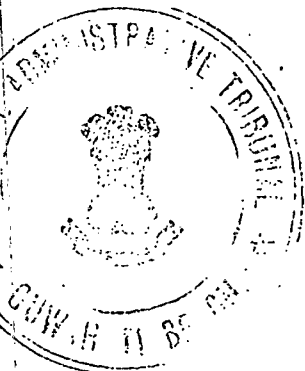
34-

7. The order dated 4.9.1993 of the respondents terminating service of the applicant from 16.10.1993 was arbitrary and bad in law because the applicant had already acquired temporary status. Again the office memorandum No.MBD/WC-Estt-24/93-6443-47 dated 16.10.1993 issued by the Executive Engineer (respondent No.3) terminating her service with effect from 16.10.1993(AN) was bad in law. However, the Executive Engineer (respondent No.3) again appointed the applicant, Smt A. Talukdar as Work Charge Seasonal Khalasi vide memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994. Presently the applicant is serving pursuant to this appointment. The arbitrary and illegal termination of service orders dated 4.9.1993 and 16.11.1993 referred to above were liable to be quashed. But, no specific order of this nature is now required in view of her appointment in the service vide Memorandum No.MBD/WC/Estt-24(A)/94/2542-51 dated 9.5.1994.

8. This Review Application is allowed. The judgment/order dated 16.11.1993 in O.A.No.201/93 is hereby reviewed and the following directions are made:

The respondents are directed not to terminate the services of the applicant, Smt. Anima Talukdar in future and shall regularise her service in Group 'D' post in terms of C.M. dated 10.9.1993/Casual Labourers Scheme 1993.

9. We make no order as to costs.



TRUE COPY
 प्रतिक

Sd/- S. HAQUE
 VICE CHAIRMAN

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

[Signature]
 10/7/94
 Section Officer (J)

अधिकाारी (अधीनस्थ)
 Central Administrative Tribunal
 गुवाहाटी

[Handwritten signatures]
 Advocate
 Advocate

To

The Executive Engineer,
Government Of India
Central Water Commission,
Middle Brahmaputra Division-II
Six mile, Panjabari road,
Khanapara, Guwahati-781022.

Dated Guwahati, the 16/8/95 1995.

(Through proper channel)

Subject :- Request for appointment as khalasi
on regular basis regarding.

Sir,

With reference to the subject cited above I beg to inform you that I am serving under your department as casual labour/seasonal khalasi since the year 15th February 1988 to till now.

It is to ^{be} noted ^{here} ~~due~~ that I served for more than 240 days in different years.

I am to inform you that vide O.M. No. 49014/4/90-Estt. (C) issued by the Ministry of Personnel, Government Of India dated 8th April 1991 and similar other circular issued by the Govt. Of India from time to time, ~~it~~ has been stressed the need for regularising all casual employees like me and I beg to state that on the basis of the circular and other guide lines issued by the Govt. Of India from time to time, I was entitled to be regularised, but till date my services were not regularised.

Therefore, I request you to kindly take necessary action for regularisation of my service at an early date.

Your's faithfully

(Signature)
(SRI GADA DHAR BHARALI)
SEASONAL KHALASI

Attest
(Signature)
Advocate

-36-

NO. P.A.S.D./G.C.C./S.A./51/370 Date 16/8/95

To

The Executive Engineer
M.B. Division
C.W.C., Guwahati

Subject :- Regularisation of services regarding.

Sir,

I am to forward herewith the following applications where in the applicants have requested for regularisation of their services.

1. Shri Gada dhar Bharali, S/Khalasi
2. Shri Dina Ram Gogoi, -do-
3. Shri Ramu Sharma, -do-

It will note be out of place to mention here that the above seasonal khalasis are working in this organisation as casual khalasi/seasonal khalasi from time to time for quite a long period. It is therefore requested that their services may please be regularised ~~xx~~ as per prevailing rules & regulation framed by the Govt. for the purpose.

your's faithfully

Pranjal
16/8/95

(D.C. MANDAL)

ASTT. ENGINEER, MECH. SUB-DIVISION
C.W.C., KHANAPARA, GUWAHATI-781022

Attested
A.K.K.
Advocate

Handwritten notes:
Shri J.K. Pathak
Shri J.K. Pathak
Shri J.K. Pathak

Handwritten notes:
T.T.
T.T.

XXXXXXXXXX
9.5.94.
is directed to forward herewith a copy of order/

Respondent(s):
Sh. J.K. Pathak

Applicant(s):

Union of India & Ors.

Applicant(s):

RA-165/94 In
2246/92.

2. Shri Jayant Kumar Pathak, Respondent in RA,
S/o Shri Kushanwar Pathak,
Assistant Electrician, Control Stores Division,
Central Water Commission, West Block 1, Wing No. 4,
End floor, R.K. Puram, New Delhi.

1. Shri Jog Singh, Counsel for petitioner in RA,
1108, Prakash Deep, 7, Tolstoy Marg,
New Delhi.

The Registrar,
Central Administrative Tribunal,
New Delhi.

Dr. 11 / 5 / 1994.

President House,
Co-operative Marg,
New Delhi-110011.

Central Administrative Tribunal
Principal Bench: New Delhi.

Handwritten note:
Not received

Central Administrative Tribunal
Principal Bench, New Delhi.

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

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

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(C)
Hon'ble Mr. B.N. Ohoundiyal, Member(A)

RA-165/94 in OA-2246/92 RA-171/94 in OA-1601/92 & 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,
Seva Bhavan, R.K. Puram,
New Delhi.

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

Review Applicant's
Respondents in OA.

(through Sh. Jogi Singh)

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

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

Respondent in RA/
Applicant in OA.

RA-171/94 in OA-1601/92

Shri Rajesh Kumar Saini,
S/o Shri Veer Sain Saini,
Workshop 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 OA

RA-172/94 in OA-2418/92

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

Shri Rajender Sharma
S/o Sh. Bhawan Sharma
Caretaker
Central Stores Divn.

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. Harendra Ram.
8. Sh. Udal Kumar,
S/o Shri Kurukul.

Respondents in RA/
Applicants in OA.

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

ORDER (BY CIRCULATION)

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

These review applications have been filed
by the respondents against the common judgment 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
Advocate

- (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

Attended
Admitted
Advocate

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- 41 -
(2)

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 Commission within the stipulated time.

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

(B. N. DHONDJIYAL)
MEMBER (A)

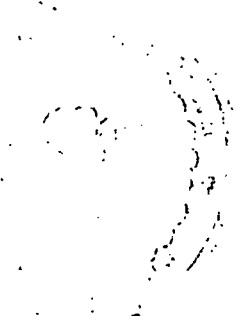
(S. K. SHACK)
VICE CHAIRMAN

/vv/

Original cases in
- Distribution of 14/1/94

Amended time copy
11/1/94
9.5.94

CC CD
CAT P.B.
New D&W



CERTIFIED
17/1/94
@ 530/1739
Section Officer

Attest
S.M.S.
Advocate

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~~IN THE~~ CENTRAL ADMINISTRATIVE TRIBUNAL

GUAHATI BENCH :: GUAHATI-5

In the matter of

O.A. No. 237/96

Shri Gadadhar Bharoi

Vs

Union of India & Ors.

Central Administrative Tribunal
 Guwahati Bench
 2/0
 1 FEB 1997
 Guwahati Bench

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 3
2.	Annexure R-I order dated 25.10.95	4
3.	Annexure R-II, copy of the letter dated 16.12.95.	5

Guwahati
Dated 11th Feb., 1997.

Chauhan
11/2/97

(MD. SHUKAT ALI)
Sr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati.

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RM
RM
12/2/97

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

In the matter of

O.A. No.237 of 1996
Sri Gadadhar Bharoli.

Vs

Union of India & Ors.

In the matter of :
writtens statement submitted by the
Respondents No.1 to 3

The humble Respondents submit their
written statements as follows:-

PRELIMINARY OBJECTIONS :

1. That the present O.A. is an instance of gross abuse of the process of Law. It is submitted that the applicant i.e. Sri Gadadhar Bharali had earlier filed O.A. No.207/95 before this Hon'ble Bench and sought the following:
 - (i) A direction to the respondents to regularise the services of the applicant giving him the benefit of regularisation from date of his initial appointment on work charged basis with all consequential benefits.
 - (ii) A declaration that the applicant earned temporary status from 10.9.93.
 - (iii) Any other relief or reliefs to which the applicant is entitled under law and equity.

The said O.A. was disposed of vide order dt.25.10.95 with certain direction. A copy of the order dt: 25.10.95 is annexed hereto & marked as Annexure R-1. It is stated that in compliance to the said directions issued vide

FILED BY

A. K. Nath

11/2/97

(MD. SHAUKAT ALI)
tr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench

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order dt. 25.10.95 the respondents considered the directions issued by the Hon'ble Tribunal sympathetically and objectively and informed applicant vide letter dt:16.12.95 that his case is not covered by the 1993 scheme. A true copy of the letter dt: 16.12.95 is annexed hereto as marked as Annexure R-II. It is further stated that the said decision dt: 16.12.95 has not been challenged by the applicant. It is respectfully submitted that the said material and vital facts have been suppressed by the applicants & as such the applicant is guilty of concealing these material facts.

2. A bare perusal of the reliefs sought in OA no. 207/95 as well as present OA would show that the same are identical word by word. It is stated that once the reliefs prayed for in OA no. 207/95 have not been granted by the Hon'ble Tribunal, the fresh OA seeking the same reliefs is not maintainable. It is therefore prayed that the Hon'ble Tribunal may be Graciously pleased to dismiss the OA with special costs.

3. Since the OA is not maintainable, no parawise reply is submitted. However the allegations made by the applicant are denied, It is denied that there are any regular or temporary vacancy or vacancies in which the applicant can be accommodated, as prayed. Without prejudice to the above mentioned objections is stated that "the scheme for Grant of Temporary Status and Regularisation of Seasonal work charged Khalasis is being framed, as per

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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 & 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.

It is stated that once the said scheme is approved by the Cabinet, the same would be notified immediately as per the scheme, the applicant's case would be considered.

In view of the submissions made hereinabove, the respondents respectfully pray that the Hon'ble Tribunal may be graciously pleased to dismiss the OA with costs. It is prayed accordingly.

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

I, V.P. Shiv, Executive Engineer, Middle Brahmaputra Division, C.W.C., Rajgar 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...11th...day of.....Feb....., 1997 at Guwahati.

V.P. Shiv
DECLARANT

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

ANNEX-R-I

O.A.No. 207 of 1995

Gadadhar Bharali.... Applicant.

U.O.I. & Ors. Respondents.

For the Applicant:- Mr. M. K. Choudhury, Mr. B. K. Baisnya, Advs.
For the Respondents:- Mr. A. K. Choudhury, Addl. CGSC.

B E F O R E:-
THE HON'BLE JUSTICE MR. M. G. CHAUDHARI, VICE CHAIRMAN.
THE HON'BLE SHRI G. L. SANGLYINE, MEMBER (A).

DATE.
25.10.95

O R D E R

Mr B. K. Baisnya for the applicant.

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

Heard. Facts are similar to O.A. 206/95.

For the same reasons given in the order on that O.A. similar order is fit to be passed. Hence following order :-

Under the circumstances the Executive Engineer is directed to consider the question as to whether the applicant can be given the benefit of the above mentioned scheme and grant him the same if eligible and not to terminate the temporary engagement of the applicant till such decision is taken and communicated to the applicant.

With the above directions the application is disposed of at admission stage. No order as to costs.

① * usual to benefits (Grant of Temporary status and Regularisation) Scheme of Govt of India 1993 etc

Sd/- VICE CHAIRMAN

Sd/- MEMBER (A)

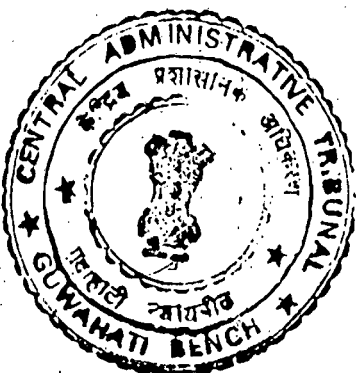
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प्रमाणित प्रतिलिपि

COURT OFFICER

সদরতঃ অফিসারী

Central Administrative Tribunal



No. MBD/Gau/WC/Estt-54(CAT)/95/1412-9
Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road, Guwahati-781007

ANNEX-R-I

Dated the 14/12/1995.

To

Shri Gadadhar Bharali,
R&M Rest Room of Barak Division,
Central Water Commission,
Six Mile, Narengi Road,
Kahanpara, Guwahati-22.

Subject:-

CAT case No. C.A. No. 207 of 1995 in the matter
of Shri Gadadhar Bharali
Vs
U.C.I. & Ors.

With reference to the Hon'ble CAT directions in the case No. C.A. 207 of 1995 I am to inform you that the undersigned has considered your case sympathetically and regrets to inform you that you are not covered by the scheme of casual labourer (Grant of temporary status and regularisation) referred in the case.

As there is no work during nonmonsoon season your services is no longer required as work charged Seasonal Khalasi with effect from the afternoon of the 16th December, 1995.

A separate scheme for "Grant of Temporary status and Regularisation" for these categories is under preparation in consultation with Ministry of Water Resources and when the scheme will be available for implementation your case will be considered sympathetically as per seniority cum fitness basis depending upon the availability of Regular vacancy.

Shri. C. S. C.
14/12/97
Copy to :-

Accounts Branch, MED, CWC, Guwahati.

The Asstt. Engineer, Mechanical Sub-Divn., CWC, Guwahati-22. He is directed to prepare pay bill upto 16th Dec., 1995 beyond monsoon season.

N/O

Copy forwarded for favour of kind information to :-

1. The Chief Engineer, B.B. Basin, C.W.C, Jamir Bansion, Nongshillong, Shillong-14. This is as per Commission's letter No. Cw/804/11/95-Estt-XII dt. 27.11.95 and written opinion on the judgment in above cases received from Md. S. Ali, Sr. CGSC, CAT, Guwahati Bench, Guwahati (Copy Enclosed).
2. The Superintending Engineer, H.O. Circle, CWC, Guwahati-24.

mp2
O/c (V. P. SHIV)
EXECUTIVE ENGINEER
16/12/95

mp5
O/c (V. P. SHIV)
EXECUTIVE ENGINEER
16/12/95