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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed Date-28/01/99

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R.A/C.P No.....

E.P/M.A No. 231/98.....

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN.NO.	24	OF 1996
TRANSFER APPLN.NO.		OF 1995
CONT EMPT APPLN.NO.		OF 1995 (IN NO. )
REVIEW APPLN.NO.		OF 1995 (IN NO. )
MISC. PETITION NO.		OF 1995 (IN NO. )

..... *Amid...G.C.* .....

APPLICANT(S)

-vs-

..... *.....* .....

RESPONDENT(S)

For the Applicant(s)	.... Mr. B.K. Sharma
	Mr. B. Mukherjee
	Mr. S. Sanna
	Mr.
For the Respondent(s)	Mr. S. Ali, Sr.C.G.S.C.

OFFICE NOTE	DATE	ORDER
This application is in form and within time. C. F. of Rs. 50/- deposited vide IPO/BD No. 309/95 dated 25-11-95 <i>1/c. B. Sharma</i> <i>15/2/95</i> <i>1/c. B. Sharma</i> <i>15/2/95</i>	19-2-96	Leave note of applicant's counsel. Adjourned to 22-2-96. <i>b/c</i> Member
	22-2-96	Mr. B.K. Sharma for the applicant. Mr. S. Ali, Sr.C.G.S.C. for the respondents. Oral order of termination of service is challenged. O.A. is admitted. Issue notice to the respondents. 8 weeks for written statement. Adjourned to 25-4-96. It is made clear that notwithstanding <del>as</del> this O.A. the respondents may examine the question as to whether the applicant is entitled to be given the benefit of the Casual labourers (grant of temporary status and regularisation) scheme dated 7-11-89 even though the applicant is presently out of employment and to take appropriate decision. We desire that the respondents apply their mind <sup>to</sup> with this question and explained the same appropriately in the written statement.
Requisite steps are now taken. vide m. 577-16 d. 8-3-96 <i>24/3</i>		

(contd. to Page No. 2)

OA/TA/CP/RA/MP No. of 19

2

2

OFFICE NOTE	DATE	ORDER
Notice duly sent on R. No. 2243.	22-2-96	Returnable on 12 weeks. Adjourned to 23rd May 1996. 60 Member
W/Statement has not been filed.	25.4.96	Learned Sr.C.C.S.C Mr S. Ali prays for four weeks time for filing counter. Allowed. List on 4.6.96 for counter and further orders. 60 Member
W/Statement has not been filed.	4.6.96	None present. Written statement has not been submitted. List for written statement and further orders on 15.7.96. 60 Member(A) 60 Member(J)
	15-8-96	Learned counsel Mr. B.K. Sharma for the applicant is present. Mr. S. Ali Sr. C.G.S.C. for the respondents is present. Written statement has not been submitted. List for written statement and further order on 7-8-96. 60 Member
17-7-96 Memo of appearance filed by Mr. S. Ali, B.K. on behalf of R. No. 1, 2, 3 & 4. at 24-29.	1m	

M

1) Notice duly served on  
respondents on 23.8.96.

2) Writs served on the  
Court on 23.8.96.

319

7.8.96 Mr S.Sarma for the applicant. Mr S.Ali, Sr.C.G.S.C for the respondents. Written statement has been submitted and served on counsel of the applicant. Case ready for hearing.

List for hearing on 4.9.96.

Member

pg

Case is ready for hearing.

RECORDED CONSIDERED MR AXHEDW

4.9.96

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

List for hearing on 1.10.96.

Member

pg

1.10.96

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

List for hearing on 19.11.96.

Member

pg

19.3.97

Mr S.Sarma for the applicant. At the request of Mr S.Ali, learned Sr.C.G.S.C hearing adjourned to 30.4.97.

Writs served on the Court on 23.8.96.

324

Member

Vice-Chairman

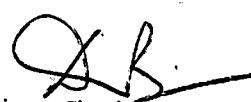
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30.4.97

On behalf of Mr. B.K.Sharma, Mr. S.Sarma, prays for short adjournment as Mr. B.K.Sharma is out of station for personal reasons. Prayer allowed.

List on 10.6.97 for hearing.

6  
Member

  
Vice-Chairman

trd

AV  
2/5

15.7.97

Counsel for the parties submit that the case is ready for hearing.

List for hearing on 26.8.97.

26.8.97

Bench is not available due to circuit sitting at Shillong.

he  
26/8

6  
Member

  
Vice-Chairman

pg

16/7

23-9-97

On the prayer of counsel for the parties case is adjourned till 21-1-98 for hearing.

6  
Member

  
Vice-Chairman

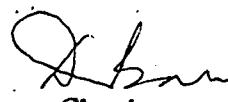
lm

24/9

21-1-98

There is no representation on behalf of the parties. Case is adjourned till 24-4-98 for hearing.

6  
Member

  
Vice-Chairman

lm

22/1

## Notes of the Registry | Date | Order of the Tribunal

W/S has been filed.

26/7

24.4.98

14

The case is otherwise ready for hearing. List it for hearing on 17.7.98.

6  
Member

Vice-Chairman

nkm

7/8  
27/4

17-7-98

The case is ready for hearing as regard Service.

24  
7-8

On the prayer of Mr.S.Ali learned Sr.C.G.S.C case is adjourned till 10-8-98 for hearing. Mr.S.Sarma learned counsel has no objection.

List on 10-8-98 for hearing.

6  
Member

Vice-Chairman

lm

7/8  
20/7

10.8.98

W/S has been filed on behalf  
of Nos 1-4.

26/8

Mr S. Ali, learned Sr. C.G.S.C. is not present due to his indisposition. Mr G. Sarma, learned Addl. C.G.S.C. prays for a short adjournment on his behalf. Let the case be listed on 20.8.98.

6  
Member

Vice-Chairman

nkm

21  
12/8

20.8.98

On the prayer of Mr B.K.Sharma, learned counsel for the applicant the case is adjourned to 24.8.98.

6  
Member

Vice-Chairman

pg

24.8.98

There is no representation. The application is dismissed for default.

6  
Member

Vice-Chairman

pg

25/8

Copies of the order  
have been sent to the  
D/Secy for Secy of the  
SAC & L/Admistrators of the  
parties.

yf

Notes of the Registry	Date	Order of the Tribunal
<u>24-12-98</u> Written statement has been filed - 24/12/98	20.10.98	In view of the order passed in Misc. Petition No. 231/98 (O.A. 24/96) the Original Application is restored to file. List on 28.12.98 for hearing.
<u>22.1.99</u> Case is ready for hearing.	28.12.98	Present: Hon'ble Mr Justice D.N. Baruah Vice-Chairman Hon'ble Mr G.L. Sanglyine, Administrative Member Mr S. Ali, learned Sr. C.G.S.C. is still indisposed and unable to attend this Tribunal. Mr A.K. Choudhury, learned Addl. C.G.S.C. prays for an adjournment on his behalf. Prayer allowed. Fix it on 25.1.1999.
<u>29.1.2998</u>	nkm	Member Vice-Chairman
<u>25.1.99</u>		Division Bench is not available. List on 27.1.99 for hearing.
<u>27.1.99</u>	pg	Vice-Chairman
<u>11.3.99</u> Copies of the Judgment have been sent to the D/see. for issuing the same to the parties through Regd. att. of. vide st. No. 872 to st. 876. dt. 18-3-99	28.1.99	Heard learned counsel for the parties. Hearing concluded. Judgement delivered in the open court, kept in separate sheets. The application is disposed of. No order as to costs.
	trd	Member Vice-Chairman

8.

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 24 of 1996

Date of decision 28.1.99

Sri Anil Das

PETITIONER(S)

Mr. B.K.Sharma, Mr. S.Sarma.

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. A.Deb Roy, Sr.C.G.S.C.

ADVOCATE FOR THE  
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 24 of 1996.

Date of order : This the 28th day of January, 1999.

Hon'ble Mr. Justcie D.N. Baruah, Vice-Chairman.

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

Sri Anil Das,  
S/o Nila Kanta Das,  
P.O. and P.S. Marigaon,  
Village-Marigaon  
Dist. Marigaon

Applicant.

By Advocates Mr. B.K. Sharma and Mr. S. Sarma.

-versus-

1. The Union of India,  
represented by Secretary to the  
Government of India, Ministry of  
Telecommunication,  
New Delhi.
2. The Chief General Manager,  
Assam Telecom Circle,  
Ulubari, Guwahati-7.
3. The Telecom District Engineer,  
Department of Telecommunication, Nowgaon,  
Assam.
4. Sub-Divisional Engineer,  
GT Telecom, Marigaon,  
Assam

Respondents

By Advocate Mr. A. Deb Roy, Sr. C.G.S.C.

O R D E R

BARUAH J. (V.C.).

This application has been filed by the applicant challenging the oral order of termination and also refusal of the authority to allow the applicant to discharge his duty as casual worker. The facts are :

The applicant was engaged Casual Mazdoor in the office of the Sub-Divisional Engineer, Telecom, Marigaon in the month of August, 1994. He continued to work as such for more than a year i.e. upto

PR

Contd..

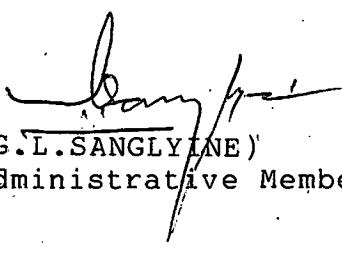
October, 1995. Then suddenly the authority namely, 4th respondent Sub-Divisional Engineer, GT, Telecom, Marigaon, Assam, verbally terminated his casual engagement with effect from 4.10.95. The applicant was not allowed thereafter, to work as casual Mazdoor. The applicant being aggrieved submitted Annexures B and C representations dated 17.10.95 and 1.11.95 before the 4th respondent. As nothing was done the applicant has approached this Tribunal by filing the present application.

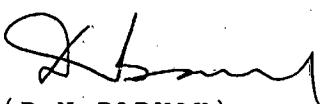
2. In due course respondents have entered appearance and filed written statement. The short case of the applicant is that his engagement as Casual Mazdoor in the said department was unreasonably terminated. This averment has not been admitted by the respondents. In para 6 of the written statement in reply to paragraph 4.4 of the Original Application the respondents have denied all the claims of the applicant made in the said paragraph. It is further denied that the action of the respondents are arbitrary and acted malafide in terminating the casual engagement. It has been averred that the applicant refused to work in outdoor duties of telephone lines, and also refused to go on transfer to other stations leaving Marigon when he was asked to do so. This led to the termination of the engagement as Casual Mazdoor. From the averment made in the written statement it is clear that the service of the applicant was not terminated due to paucity of work, it was because of his failure to comply with the direction given by the authority. This has however disputed by the applicant. Rejoinder has also been filed.

by the applicant denying the averment made by the respondents. In the rejoinder applicant has stated that he is still ready to go anywhere. The representations of the applicant have not yet been disposed of. Therefore it is difficult for the Tribunal to decide the matter in view of the disputed facts. Most unfortunately records have not been produced before the Tribunal. In these circumstances we feel it will be expedient if the matter is properly examined by the respondents specially respondent No.4, before whom representations are pending. Therefore we dispose of this application with direction to the 4th respondent to dispose of the representations already filed. The applicant may also file a fresh representation giving details of his claims within 15 days from the date of receipt of this order. If such representation is filed that shall also be considered alongwith other representations within two months thereafter. If no fresh representation is filed then two months from the date of receipt of this order. While disposing of the representations the 4th respondent shall take into consideration of the stand taken by the applicant in his rejoinder that he is ready to serve anywhere and willing to go on transfer. If the applicant is still aggrieved, he may approach the appropriate authority.

3. With the directions made above, the application is disposed of.

Considering the facts and circumstances of the case, we however, make no order as to costs.

  
(O.G.L. SANGLYINE)  
Administrative Member

  
(D.N. BARUAH)  
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

File by  
✓

Siddhartha Sengupta  
Advocate

O.A. No. 24 OF '96

Anil Ch. Das ... Applicant

- versus -

Union of India & Ors

.... Respondents.

AND

IN THE MATTER OF:

A rejoinder to the written statement  
filed by the Respondents.

The applicant begs to state as follows:-

1. That the applicant has gone through the copy of the written statement and have understood the contents thereof.
2. That with regard to the statements made in paragraphs 1,2,3, and 4, the applicant reiterates the statements made in the Original Application.
3. That the applicant categorically denies the statements made in paragraph 5 of the written statement, Annexure-A to the O.A. clearly states about the engagement of the applicant during the period August, 1994 to 4.10.95 on which date the services of the applicant was terminated orally. The Respondents can not disown such a position, the applicant during the said period continuously worked in the Department without any break and he was paid the wages as admissible under the rules.
4. That as regard the statements made in para 6 of the written statement it is categorically denies that the applicant had denied to work in outdoor work of telephone lines and also

✓

disagreed to leave Marigaon and declined to go on transfer in other station. The applicant was never asked to do any outdoor duties, rather the service of the applicant was dispensed with, with the assurance giving the applicant outdoor duties however till date no such duties have been assigned to him. On the other hand, other persons have been appointed depriving the applicant in this connection mention may be made of one Shri Dulal Nath of village Rajbari, Marigaon who has been engaged after disengaging the applicant. The applicant is merely and willing to go anywhere else if he is provided with work by the Respondents.

5. That with regard to the statements made in paragraphs 7 to 10, of the written statements the applicant categorically denies that his case does not come within the purview of the scheme. He has got a right to be continued in service even without temporary status as has been allowed in other such cases by the Respondents.

6. As per their own admission, the respondents have discontinued the services of the applicant on the alleged ground of his refusal to work in outdoor duties and not for any other reason. On the other hand, as stated above, the applicant has never been assigned with any outdoor duties.

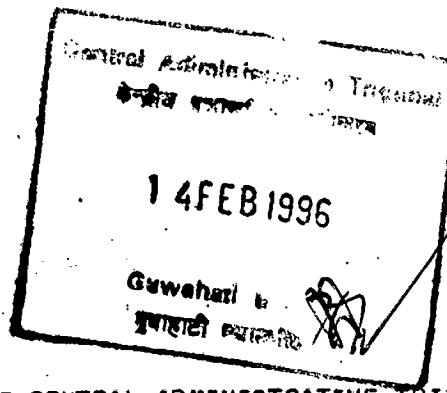
7. That with regard to the statements made in paragraphs 11 to 14 the applicant reiterates the statements made in the Original Application.

Y  
VERIFICATION

I, Shri Anil Ch.Das, applicant in O.A. No.24/96 do hereby verify that the statements made in the Rejoinder are true to my knowledge.

And I sign on this Verification on this the 27<sup>th</sup> day of January, 1999.

*Sri Anil Das*  
Signature



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

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

TITLE OF THE CASE

:: O.A. NO. 24 OF 1996

SRI ANIL DAS

...APPLICANT

VERSUS

UNION OF INDIA AND OTHERS

... RESPONDENTS.

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8.	WJS	24 — 29.

FOR USE IN TRIBUNAL'S OFFICE.

Received 10/2/96  
File C/S/C  
14/2/96

Date of filing:	1
Application No.:	1
REGISTRAR.	1

Q. M. No. 24  
Filed by the applicant  
on 2-2-96  
T. A. D.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. NO. 24 OF 1996

B E T W E E N

SRI ANIL DAS

S/o. Nila Kanta Das,  
P.O. and P.S. Marigaon,  
Village- Mari Aragam  
Dist. Marigaon

...APPLICANT

A N D

1. The Union of India,  
represented by Secretary to the

Govt. of India, Ministry of Telecommunication  
New Delhi.

2. The Chief General Manager,

Assam Telecom Circle,  
Ulubari, Guwahati-7

3. The Telecom District Engineer

Department of Telecommunication, Newgaon  
Assam.

4. Sub-Divisional Engineer, GT Telecom, Marigaon,

Assam. ...RESPONDENTS.

(2)

DETAILS OF APPLICATION

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

The instant application is directed against illegal termination of service and the deemed rejection of the representation of the applicant for regularisation of his service in Group 'D' category under the Department of Telecommunication pursuant to the Apex Court's decision and scheme made thereunder. The application is also directed for a direction to the official respondents for regularisation of the services of the applicant in Group 'D' category and/or absorption of the applicant in the Department of Telecommunication under the relevant scheme and confirmation of temporary status with all consequential benefits.

2. JURISDICTION OF THE TRIBUAL

The applicant declares that the subject matter of the 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 Tribunals Act, 1985. However, the circumstances leading to the filing of the instant application has been explained under the Head - 'Facts of the Case' and which may be taken into

account.

**4. FACTS OF THE CASE:**

4.1 That the applicant is a citizen of India and a permanent resident of Assam and as such he is entitled to all the rights and protection guaranteed under the Constitution of India.

4.2 That the applicant belongs to poorer section and in search of employment he could not prosecute his studies after passing Class X and was compelled to go for a job for earning livelihood for the members of his family.

4.3 That the applicant was appointed in the Department of Telecommunication, Morigaon, Assam on casual basis in after completing all requirement, in the month of August, 1994.

The applicant was continuing in the said post <sup>un-</sup>interuptedly upto October, 1995 and was performing his duties upto the satisfaction of all concerned. Suddenly in October, 1995 (4.10.95) the service of the applicant was terminated arbitrarily by an oral order by the Respondents. The Respondents while terminating the service of the applicant did not take <sup>into</sup> account of the spell and length of service rendered by the applicant in the light of the scheme made for regularisation of Group 'D' employees pursuant to Apex Court's verdict.

A copy of certificate dated 28.9.98 issued by the

Sub-Divisional Engineer GT, Telecom, Morigaon, Assam is annexed herewith and marked as Annexure-A

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(3)

4.4 That the applicant begs to state that the respondents have acted arbitrarily and with malafide intention while terminating his services. The applicant was given assurance that he would be accommodated in line work (outdoor duty) in the same Department, but the same has not been materialised till date. It is further stated that the Respondents have acted with a malafide intention to accommodate another person under the pressure of the Union and the applicant has been made scape goat of the situation. The applicant made several oral prayers and when his prayers which were rejected has made a representation on 17.10.95 making a prayer for reinstatement in service but same has been denied. The respondents have any never chosen to reply the same. Being aggrieved by the arbitrary and illegal action of the Respondents the applicant made one more representation on 1.11.95 but the same also had fallen to the deaf ears of the Respondents.

Copies of the said representation dated 17.10.95 and

1.11.95 are annexed herewith and marked as ANNEXURE B & ANNEXURE C respectively.

4.5 That pursuant to the service rendered by the applicant on casual basis for the said period, the applicant in the natural

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(5)

course expected that his services would be regularised by the Respondents in due course. It was also the <sup>expectation</sup> representation of the applicant that he would be conferred with temporary status with all consequential benefits in as much as he conforms to the requirements of conferment of temporary status with all consequential benefits. Consequently his services ought not to have been terminated. It will be pertinent to mention here that the casual employees who had entered the services of the Respondents with that of the applicant and even after his such entry have since been regularised or conferred temporary status under the relevant scheme pursuant to a decision of the Apex Court and they are all enjoying the benefits of the said Apex Court's decision <sup>as per</sup> and the scheme prepared by the Respondents. However, the applicant has neither been favoured with regularisation of his services nor <sup>has been conferred</sup> conferment of temporary status, rather his service has been terminated in the year 1995 and inspite of his repeated representations he has not been favoured with any reply and thus he has got no other alternative remedy than ~~thence~~ to come under the protective hands of this Hon'ble Tribunal for redressal of his grievances.

4.6 That the applicant states that he has made numerous representations urging upon the authorities for his reengagement and

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(6)

and confirmation of temporary status and benefit thereof as have accrued to the applicant pursuant to the decision of the Apex Court and the scheme prepared by the Respondents, but till now he has not been favoured with a reply as stated above. It will be pertinent to mention here that some of the casual employees like that the applicant had filed Writ petition (C) No. 1288/88 (Ram Gopal & Ors Vs. Union of India & Ors) before the Apex Court urging for regularization of their services. Alongwith the said Writ petition some other Writ petitioner has also been filed by similarly circumstanced casual employees of the Department of Telecommunication. The Hon'ble Supreme Court in the light of the decision rendered in Daily rated Casual Labourers Vs. U.O I & Ors. reported in (1988) I SCC 122 concerning the casual employees of the Department of Posts, passed judgement in conformity and in the light of the said judgement. Under the said judgement, the respondents were directed to prepare a scheme on a rational basis for absorbing as far as practicable the casual labourers including the petitioners therein who have continuously worked for more than one year in the Telecom Department. The Apex Court also directed for doing the needful within six months from the date of judgement.

A copy of the judgement dated 17.4.91 passed by the Apex Court is annexed herewith and marked as  
ANNEXURE D

(7)

4.7 That pursuant to the aforesaid judgement, the Department has prepared a scheme called Casual labourer (Grant of Temporary status and regularization) Scheme dated 7.11.89. It is further stated by the applicant that his case is squarely covered under the said scheme and he is entitled to confirmation of temporary status with all consequential benefits like that of the other casual employees. However, the applicant has not even been replied to his representation and his service has been illegally terminated to accommodate others and consequently he is out of employment.

A copy of the Scheme 1989 is annexed as ANNEXURE E

4.8 That although the case of the applicant has not been considered and his services have been illegally terminated in 1995, persons who were appointed alongwith the applicant or even after him have been granted temporary status. For instance in the Office of the Telecom District Engineer, Bongaigaon, Assam almost 20-21 casual employees like that of the applicant has been conferred temporary status vide letter No.P.75/PT/CM/PT-II/94-95/87 dated 4.1.95. Pursuant to the said order dated 4.1.95, the employees <sup>over</sup> were continuously working with the benefits of temporary status with consequential benefits, whereas the applicant who is

also similarly situated with the above-mentioned employee has not even allowed to continue in his service, and his services have been terminated without any notice and reasons. Thus the applicant has been illegally deprived of the same benefits in violation of the Apex Court's judgement as well as the scheme prepared by the Respondents. The action of the Respondents in terminating in services of the applicant has resulted in hostile discrimination and the same is founded <sup>on</sup> malafide and violative of Article 14 and 16 of the Constitution of India.

A copy of the said letter dated 4.1.95 is annexed as

ANNEXURE E

4.9 That the applicant states that although he cannot claim regularisation of his service as a matter of right but at least he has got a right to be considered for regularisation under the scheme which was formulated pursuant to the decision of the Apex Court. But the respondents not to speak of consideration of his case have not even replied to his representations mentioned above. Be it stated here that apart from the aforesaid representations the applicant has also approached higher authorities <sup>and</sup> has also made several representation before the concerned authorities. He has been visiting the Officers of the respondents but all in vain.

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(9)

All his representations have fallen into the deaf ears of the respondents.

4.10 That the applicant begs to state that there is no earthly reason as to why he should not be considered for confirmation of temporary status with all consequential benefits.

8.11 That the applicant begs to state that the termination of his service without any written order is violative of relevant provisions of law and also violative of the principles of natural justice. It is also violative of dictum laid down by the Apex Court and the scheme prepared by the respondents in pursuance of the said apex Court's order. Thus under no circumstances his services could have been terminated by the respondents and so appropriate direction from this Hon'ble Tribunal is called for for reinstatement with all consequential benefits under the scheme, by setting aside the oral order of termination.

4.12 That the applicant after termination of his service was all along assured verbally by the respondents whenever he visited the officers that needful would be done in the matter and it was a matter of time only before the applicant could be reinstated in service and conferred with the benefits of the Apex Court's decision as well as the scheme formulated by the respondents,

✓ It was with this hope the applicant kept on pursuing the matter and now as a last resort he has come under the protective hands of this Hon'ble Tribunal. It was under the assurance of the respondents the applicant kept on hoping with reasonable expectation that his case would also be considered alongwith other similarly situated employees, but contrary to such reasonable expectation, he found that his services have been terminated by the respondents under the pressure and threat of Union people and to accommodate another in his place. Under these circumstances the applicant having found no other alternative and efficacious remedy has approached this Hon'ble Tribunal for redressal of his grievances immediately after his such termination. The applicant belongs to lower stratum of society and his family members are living in a very precarious predicament due to financial hardship and if the relief sought for herein is not granted the applicant as well as his family members will suffer irreparable loss and injury.

**5. GROUND FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that the applicant has been illegally deprived of the benefits of the Apex Court's decision and the Scheme formulated by the respondents and thus appropriate

(11)

direction be issued to the Respondents.

5.2 For that there is gross violation of the Article 14 of the Constitution of India inasmuch the applicant has been singled out for differential treatment under similar circumstances.

5.3 For that the termination of the services of the applicant was most illegal having no sanction of law and being violative of the decision of Apex Court and also the Scheme formulated by the Respondents.

5.4 For that when the similarly situated and juniors of the applicant have been granted temporary status under the scheme, there is no earthly reasons as to why the applicant should not be granted the same benefit as that of his colleague.

5.5 For that the respondents cannot apply the Scheme as well as the dictum laid down by the Apex Court on pick and choose basis and the respondents having done so, same is violative of the Constitutional provisions and the applicant is entitled to the reliefs sought for in the application.

5.6 For that in any view of the matter, the inaction on the part of the respondents are not sustainable and liable to be remedied by appropriate direction by this Hon'ble Tribunal.

5.7 For that when the applicant has complete more than 240 days of work continuously in the office of the Respondents for which

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(12)

he was ~~now~~ squarely covered by the guidelines of the Scheme prepared pursuant to Apex Court's decision, there is no earthly reason as to why he should not be given temporary status by the Respondents.

The applicant prays before this Hon'ble Tribunal to advance more grounds at the time of hearing of the application.

**6. DETAILS OF REMEDIES EXHAUSTED :**

The applicant declares that he has no other alternative remedy other than approaching this Hon'ble Tribunal.

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

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which the application has been made before any other Court of law, or any other authority and/or other Bench of the Tribunal and/or any such application, writ petition or suit is pending before any of them.

**8. RELIEFS SOUGHT FOR:**

Under the facts and circumstances stated above, the applicant prays that the instant application be admitted, records be called for and upon hearing the parties on the cause and causes that

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(13)

may be shown and on perusal of the records, be pleased to allow the application by granting the following reliefs :

(i) To set aside and quash the oral order of termination and allow of the applicant resorted by the Respondents with all consequential benefits including salary and <sup>continuity</sup> confirmity of service.

(ii) To direct the respondents to regularise the service of the applicant with retrospective effect and/or alternatively to confer the benefits to which he is entitled under the Apex Court's decision as well as the Scheme formulated by the Respondents.

(III) Cost of the application

(iv) Any other relief or reliefs to which the applicant is entitled under law and equity,

9. INTERIM ORDER PRAYED FOR

The applicant prays for an interim order from this Hon'ble Tribunal directing the Respondents to allow the applicant to continue in service as before

10.....

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(14)

11. PARTICULARS OF THE I.P.O.

(i) I.P.O. No. : 09 309059  
(ii) Date : 28.11.95  
(iii) Payable at : GUWAHATI

12. LIST OF ENCLOSURES

As stated in the Index.

VERIFICATION

I, Sri Anil Das, son of Nila Kanta Das, aged about 23 years, resident of Village Mari Aragam, P.O & P.S. Mariagan in the District of Mariagan, the applicant is the instant application, do hereby solemnly affirm and verify that the statements made in paragraphs are true to my knowledge and those made in paragraphs are true to my legal advice. I have not suppressed any material facts.

And I sign this verification on this the 14<sup>th</sup> day of  
Jan. 1996 at Gauhati Sri Anil Das

APPLICANT

Department of Telecommunication

Office of the

Certified that Sri Anil Das, s/o Sri Nila kanta Das of Vill. Aragaon, has been working as office peon at Marigaon C - D O T - 512 Exchange from August, 94 till date.

Sd/- 20.9.95

Sub - Divisional Engineer,

Attested

GT Telecom

Sd/-

Marigaon (Assam)

Seal illegible.

Attested  
Signature

ANNEXURE B.

TO

THE OFFICER IN CHARGE  
TELECOMMUNICATION  
MORIGAON

DTD. 17.10.95

Sub MY TERMINATION FROM THE POST OF OFFICE PEON

Sir,

With due respect I beg to state that, I am  
the Office peon who was worked from August, 1994 to  
October, 1995 in your office.

Sir, as you know that, I am your poor employee  
who has got no land, land for farming and unemployed youth  
under Schedule caste (Kesth) residing nearby your office,  
Morigaon area. Looking at my financial position, that time  
Respected ~~Respected~~ Mr. Roy has appointed me as a Office peon and allowed  
me to work continuously. Along with this period I have also  
worked under you from 26.9.95 to 4.10.95 continuously. On  
4.10.95 with a malefide intention and fraudulently one  
Sri Dulal Nath of Raibari Gaon appointed in my place assuring me  
to allot me line works with the plea that Union people might  
agitate the matter. Me alongwith my mother made several prayers  
with tears but till date unhumanly I have not given the job.

Attested.

✓  
Advocate.

(2)

Sir, atlast, as a last resort I have given this written application praying that I may be appointed again as an Officer soon within 10 days.

Otherwise I will have to approach before law.

Sincerely yours.

Copy for necessary action  
and favourable considerations

Sd/- Anil Das

S/o Sri Nila Kanta Das.

1.Engineer, Telecom Deptt.,  
Nagaon, Assam.

Vill. Aregan

P.O. Marigaon

2.Labour Officer,  
Telecom Marigaon  
Assam.

Mauza Marigaon

Dist. Marigaon (Assam)

P.S. Marigaon.

b  
Enclosures.

Certificate regarding my work issued by  
O/C is enclosed herewith.

Attest.

  
Advocate.

ANNEXURE C.

XXXXXX

TO

THE OFFICER IN CHARGE  
MORIGAON TELECOM ASSAM

DTD. 1.11.95

Ref. APPLICATION DTD. 7.10.95 WITH REGARDS TO MY  
TERMINATION AND NON REPLYING TO THE SAME.

Sir,

With due respect and profound submission I beg  
to state that I have made an appeal to your Goodself for  
replacing of my services by one Sri Dulal Nath as office peon,  
whereas I have served at your Goodself's office from Augu  
1994 to Oct 1995.

Sir, after 15 days from the date of my filing this  
aforesaid application I could not get any result from you and  
being aggrieved I have given this application for necessary  
making some prayer.

This is my humble submission before your Goodself.

Sincerely yours.

Sd/- Anil Das

Vill. Aragam

P.O. Morigaon

P.S. Morigaon

Dist. Dibrugarh, Assam.

This is for your favourable consideration and necessary action.  
Copy to : Respected Engineer, Telecom

Nabagon, Assam.

11/11/95  
12

Absorption of Casual Labours

Supreme Court directive Department of Telecom to take back all Casual Mazdoor who have been discharged after 30.3.1989

In the Supreme Court of India  
Civil Original Jurisdiction

Writ Petition (C) No. 1200 of 1989

Ram Gopal & Ors. ..... Petitioners

- versus -

Union of India & Ors. .. Respondents.

With

Writ Petition Nos. 1246, 1248 of 1988, 176, 177 and 1249 of 1988.

Jant Singh & Ors. etc. etc. ... Petitioners

- Versus -

Union of India & Ors. ... Respondents.

ORDER

We have heard counsel for the petitioners. Though a counter affidavit has been filed, no one turns up for the Union of India even when we have waited for more than 10 minutes for appearance of counsel for the Union of India.

The principal allegation in these petitions under Article 32 of the Constitution on behalf of the petitioners is that they are working under the Telecom Department of the Union of India as casual labourers and one of them was in employment for more than four years while the others have served for two or three years. Instead of regularising them in employment their services have been terminated on 30th September 1988. It is contended that the principle of the decision of this Court in Daily Rated Casual Labour vs. Union of India & Ors. 1988(1) section (122) squarely applies to the petitioners though that was rendered in the case of casual employees of Posts and Telegraphs Department. It is also contended by the Counsel that the decision rendered in that case also related to the Telecom Department as earlier Posts and Telegraphs Department was covering both sections and now Telecom has become a separate department. We find from paragraph 4 of the reported decision that communications issued to General Managers Telecom have been referred to which support the stand of the petitioners.

By the said Judgment this Court said :

"We direct the respondents to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Posts and Telegraphic Department."

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We find the though in paragraph 3 of the writ petition, it has been asserted by the petitioners that they have been working for more than one year, the counter affidavit does not dispute that the petition. No distinction can be drawn between the petitioners as a class of employees and those who were before this Court in the reported decision. On principle therefore, the benefits of the decision must be taken to apply to the petitioners. We accordingly direct that the respondent's shall prepare a scheme on a rational basis for absorbing as far as practical who have continuously worked for more than one year in the Telecom Dep'tt. and this should be done within six months from now. After the scheme is formulated on a rational basis, the claim of the petitioners in terms of the scheme should be worked out. The writ petitions are disposed of accordingly. There will be no order as to costs on account of the fact that the respondents' counsel has not chosen to appear and contact at the time of hearing though they have filed a counter affidavit.

Sd/-

(Ranjanath Misra) J.

Sd/-

(Kuldeep Singh) J.

New Delhi  
April 17, 1990.

CIRCULAR NO.1

Government of India  
Department of Telecommunications,  
SIN Section.

No. 269-10/89-SIN

New Delhi 7.11.89

To

The Chief General Managers Telecom Circles  
M.T.U.L. New Delhi/Bombay, Metro Distt. Madras/  
Calcutta.  
Heads of all other Administrative Units.

Subject: Casual labourers (Grant of Temporary Status and  
Regularisation) Scheme.

Subsequent to the issue of instruction regarding  
regularisation of casual labourer vide this office letter No.  
269-29/87-SIN dt. 18.11.88, a scheme for conferring temporary  
status on casual labourers who are currently employed and  
have rendered a continuous service of at least one year has  
been approved by the Telecom Commission. Details of the  
scheme are furnished in the Annexure.

2. Immediate action may kindly be taken to confer  
temporary status on all eligible casual labourers in  
accordance with the above scheme.

3. In this connection your kind attention is invited  
to letter No. 270-6/84-SIN dt. 30.5.85 wherein instructions  
were issued to stop fresh recruitment and employment  
of casual labourers for any type of work in Telecom Circles/  
Districts. Casual labourers could be engaged after 30.3.85  
in Projects and Electrification Circles only for specific  
works and on completion of the work the casual labourers so  
engaged were required to be retrenched. These instructions  
were reiterated in d.o. letters No. 270-6/84-SIN dt. 22.4.87  
and 22.5.87 from Member (Pers. and Secretary of the Telecom  
Departmental respectively. According to the instructions  
subsequently issued vide this office letter No. 270-6/84-SIN  
dt. 22.6.88 fresh recruitment of casual labourers even for  
specific works for specific periods in Projects and  
Electrification circles also should not be resorted to.

3.2 In view of the above instructions normally no  
casual labourers engaged after 30.3.85 would be available  
for consideration for conferring temporary status. In the  
unlikely event of there being any cases of casual labourers  
engaged after 30.3.85 requiring consideration for conferment  
of temporary status, such cases should be referred to the  
Telecom Commission with relevant details and particulars  
regarding the action taken against the officer under whose  
authorisation/approval the irregular engagement/non-retren-  
chment was resorted to.

Contd...

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Annex. 4E contd.

3. 3. No casual labourer who has been recruited after 30.3.85 should be granted temporary status without specific approval from this office.

4. The scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No. S.M.P/78/89 dt. 27.9.89.

5. Necessary instructions for the expeditious implementation of the Scheme may kindly be issued and payment of arrears of wages relating to the period from 1.10.89 arranged before 31.12.89.

Sd/-

ASSISTANT DIRECTOR GENERAL (STN)

copy to :

P.S. to MDS(C)  
P.S. to Chairman, Telecom Commission  
Member (S)/Adviser (HRD), G1 (Est), G1 (IR) for  
information.  
NCC/SEA/TE-II/IPS/Admin.I/CHE/PAT/SPB.I/SR Secs.  
All recognised Unions/Associations/Federations.

Sd/-

ASSISTANT DIRECTOR GENERAL (STN)

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12  
DETCC/...

GOVERNMENT OF INDIA  
OFFICE OF THE TELECOM DISTRICT ENGINEER: BENGAL ADN-783360.

No. E-75/PT & CM/PT-II/94-95/87 Dated at Dibrugarh the  
04-01-95

In continuation to this office letter of even No. dt. 24.12.94 and in pursuance of orders contained vide DOT/NDI's letter No. 269-4/93-CM-II dt. 17.12.93 communicated vide CGMT/CH's letter No. Recd-3/10/PT-III dt. 04-01-94, the following Casual Mazdoors of this Telecom Distt. who were engaged by the Circle during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the Circle where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of DOT's above order are brought under the scheme of TEMPORARY STATUS with effect from 17.12.1993.

The names of Casual Mazdoors conferred Temporary Status are mentioned below:

Sl. No.	Name of C/Mazdoor	Community	Date of entry as C/Mazdoor	Office in which working
1.	Sri Rahit Ali	OC	01-08-87	SDOT/PCP
2.	Sri Tirkat Ch. Brahma	ST	01-06-86	- do -
3.	Sri Ranesh Kaitta	OC	01-01-87	- do -
4.	Sri Dilip K. Mahato	OC	01-01-88	- do -
5.	Md. Abdul Keyam	OC	01-02-87	- do -
6.	Sri Badal Sil Sarmid	OC	01-08-87	- do -
7.	Sri Setrughna Prasad Singh	OC	01-06-87	- do -
8.	Sr. Md. Ali Abdul Berik	OC	01-05-88	- do -
9.	Sri K. Darmen	OC	01-02-88	- do -
10.	Sri Domen Sarunstary	SC	01-01-88	- do -
11.	Sri Gour Gopal Sarkar	SC	01-06-87	- do -
12.	Sri Sankar Mallik	SC	01-06-87	- do -
13.	Sri Ram Karash Thakur	OC	01-11-84	SDOT/NBR
14.	Sri Phukan Ch. Boro	ST	08-10-84	- do -
15.	Sri Sadhen Ch. Deka	OC	01-05-88	SDOT/BNR
16.	Sri Gobinda Paul	OC	01-01-88	SDOT/AKJ
17.	Sri Baden B. Sobre	SC	01-05-85	SDOT/RBR
18.	Sri Lubach Barman	OC	01-01-86	SDOT/BCI
19.	Sri Omkar Dhomnick	OC	01-01-88	- do -
20.	Sri Jogen Ch. Deka	OC	01-05-88	- do -
21.	Sri Sarkerwar Rajbanshi	OC	01-01-88	SDOT/NBR.

Sd/-

Telecom District Engineer,  
Dibrugarh

Copy forwarded for information and necessary action to:

1. ....

2. ....

13. Spare.

Sd/-

Telecom District Engineer,  
Dibrugarh.

Attested.

Advocate.

26  
39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH AT GUWAHATI

Filed by:

Sharkale:

(MD. SHAUKAT ALI) (S) 2626  
Mr. Central Govt. Standing Counsel  
Central Administrative Tribunal  
Guwahati Bench, Guwahati

O.A. No. 24 of 1996

Sri Anil Das

-versus-

Union of India & Ors.

-AND-

In the matter of :

Written Statements filed by the Respondent  
Nos. 1, 2, 3 and 4.

Written Statements :

The humble Respondents submit their  
Written Statements as follows :

1. That with regard to statements made in paragraphs 1, 2, 3 and 4 of the application the respondents have no comments.
2. That the respondents beg to state that having no impugned order annexed to the Original Application as such the same is liable to be dismissed.
3. That with regard to statement made in paragraph 4.1 of the application the respondents beg to state they have no comments on them.

4. That with regard to statement made in paragraph 4.2 of the application the respondents beg to state that they have no information about the facts in this paragraph and as such they have no comments on them.

5. That with regard to statement made in paragraph 4.3 of the application the respondents beg to state that it is not correct that the applicant was appointed and served in the department of telecommunication, Marigaon. Records do not reveal that the applicant was serving or working as Office Peon as stated in the Certificate at Annexure A issued by the Sub-Divisional Engineer, Deptt. of Telecommunication, Marigaon, Assam on 20.9.1995. It may be a fact that the applicant might have been engaged by the Marigaon Telecom Office if and when work was available on 'No Work No Pay basis.

6. That with regard to the statement made in paragraph 4.4. of the application, the respondents do not admit the contents, as such deny all the claims of the applicant and submit that the respondents have never acted arbitrarily and with mala fide intention terminated the service of the applicant as alleged by the applicant. On enquiry from the local office of Marigaon it is seen that the applicant had refused to work in outdoor duties of telephone lines and also disagreed to leave Marigaon and declined to go on transfer in other station while he was asked to do so by the local authority. Under the said circumstances the service of the applicant was discontinued as the post was without sanction ~~exam~~ for local office. Further, the statement of the applicant

that the respondents acted with a mala fide intention to accommodate another person under the pressure of the Union is not correct.

7. That with regard to the statement made in paragraphs 4.5 and 4.6 of the application the respondents beg to state that the same is not correct and hence denied. The respondent further begs to state that the applicant does not come under the purview of the Scheme prepared for regularisation of the casual workers and giving temporary status, As per the scheme the casual workers who have been engaged during the period between 31.3.1985 and 22.1.1985 be regularised. In the instant case the applicant was engaged in the month of August, 1994 so naturally his case not come for consideration for regularisation and for temporary status does not arise. It may be mentioned in this connection that the decision cited by the applicant in this paragraph have given direction to prepare a scheme for regularisation of the casual workers and to give temporary status. As per direction of the Apex Court the scheme has been prepared and as per the scheme the applicant's cannot be considered for regularisation and for giving temporary status.

8. That with regard to the statement made in paragraphs 4.7 and 4.8 of the application the respondents admit a part of the statement that the Department has prepared a scheme for regularisation of casual labourers. The other part of the statement of the said paragraphs ~~has been~~ is not correct. The respondents submit that the applicant is not entitled to be absorbed in the

Department as per the scheme prepared by the Department on the basis of direction given by the Supreme Court. Further the respondents beg to state that they have not committed any illegality in disengaging the applicant neither as/he was not eligible for regularisation in service nor eligible for getting temporary status under the scheme prepared by the Department. Further it is also not correct that the casual labourers entered into the service under the Department along with the applicant have become regularised in the Deptt and as stated by the applicant. The respondents beg to submit the fact that the Annexure G to the O.A. of the applicant reveals that the panel list of casual labourers as prepared for regularisation is properly made and no case of supersession or exclusion of name of casual labourer in the panel list has taken place. The name of the applicant does not come within the period from 31.3.1985 to 22.6.1988 as the applicant entered into his service only on August, 1984 as per his statement, therefore it is baseless to claim the respondents have excluded his name arbitrarily.

9. That with regard to the statement made in paragraph 4.9 of the application the respondents beg to state that the applicant has no right for consideration of his case for regularisation of his service and giving temporary status as the case of the applicant does not come under the purview of the scheme prepared by the department so his representation were not considered by the departmental authorities.

10. That with regard to the statement made in paragraph 4.10, 4.11, and 4.12 of the application the respondents beg to state that as stated earlier the applicant has not been terminated but disengaged as he is the casual labourer as the case of the applicant does not come under the scheme prepared by the department on the direction of the Apex Court and as such question of regularisation of his service and giving temporary status does not arise at all. It may also be stated that the discontinuation of the applicant's engagement does not amounts to any illegality.

11. That with regard to the statement made in paragraph 5 the respondents beg to state that none of the grounds in this paragraph from 5.1 to 5.7 is maintainable.

12. That with regard to the statement made in paragraphs 6 and 7 of the application the respondents have no comments.

13. That with regard to the statement made in paragraph 8 of the application the respondents beg to state that regarding relief sought for the application is not entitled to any of the reliefs and as such the application is liable to be dismissed.

13. That with regard to statement made in paragraphs 9, 10, 11, and 12 of the application the respondents beg to state that they have no comments on them.

14. That the respondents beg to state that the application is devoid of merits and as such the same is liable to be dismissed.

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

I, Bishynt Dasgupta Assam Disctrict Telecom (legal) serving as in the office of the C.G.M.T, Assam Circle, Guwahati as authorised do hereby solemnly affirm and declare that the statement made above in this written statement are true my knowledge, belief and information.

And I sign this verification on this the 15<sup>th</sup> day of July 1996.

Date : 15.7.96

Place : Guwahati

DECLARENT

Bishynt Dasgupta  
Assam Disctrict Telecom (legal)  
Off. C.G.M. Telecom (Assam Circle)  
Guwahati - 781 007