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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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L
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R.A/C.P No.
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SECTION OFFICER (Judl.)

241 No. 241196

Harish Ch. Barman & Applicant(s)

VS.

OR,

Union of India & or. Respondent(s)

Mr. B.K. Sharma, B.N. S. Sonu Advocates for the applicant(s)

Mr. S. Ali, L. Bose Advocates for the Respondent(s)

Office Notes	Date	Courts' Orders
<p>This application is in form and within time C. E. of Rs. 50/- deposited vide IPO No. 44462 Dated ... 15/10/96</p> <p><u>B. K. Sharma</u> Dy. Registrar. 14/10/96</p> <p>Pl. comply. 16-10-96</p> <p>22.11.96</p> <p>Notice of Remission by hand on behalf of Respond No. 1, 2, 3, 4.</p> <p><u>Barsuman</u> 22/11/96 CNC.</p> <p>W/sent - has not been G.W.</p> <p>22/11</p>	<p>15.10.96</p>	<p>Learned counsel Mr B.K. Sharma for the applicants. Learned Sr. C.G.S.C., Mr S. Ali for the respondents.</p> <p>Heard Mr Sharma for admission. Prayer to allow the applicants to join together in this single application is granted in terms of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 as the conditions mentioned therein are fulfilled. Perused the contents of the application and the relief sought. The application is admitted. Written statement within 6 weeks.</p> <p>List for written statement and further orders on 26.11.96.</p> <p>Mr Sharma prays for interim order. Mr Ali opposes the grant of interim relief. Heard counsel of the parties and it is ordered that the respondents shall not terminate the service of the applicants without leave to this Tribunal.</p> <p>60 Member</p> <p>nk 16/10</p>

O.A. No. 241 of 1996

26.11.96

Mr. S.Sarma for the applicants.

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

Written statement has not been submitted.

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

by
Member

trd
m/
26/11

17-1-97

w/ statement has 18.12.96
not been submitted.

Vide order passed today in M.P.
224/96 the interim order dated 15.10.96
has been modified.

Member

pg

30-12-96

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

Written statement has not been submitted.

List for written statement and further orders on 20-1-97.

by
member

pg

20.1.97

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

4-2-97

DS filed by me

Resps.

by
Member

Notice duly served by
hand on Resps no 1-4
w/ statement - this is on 20/11
3) Memo of appearance by not-
2 bid by Mr. S.Ali, Sr. C.G.S.C.

pg
m/
20/11

3

3

12-2-97

Mr.B.K.Sharma learned coun appearing on behalf of the appli nt submits that similar cases are pending in this Tribunal.

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


Member

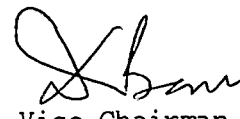

Vice-Chairman

pg
M/
18/2

10.3.97

Let the case be listed on 21.4.1997 for hearing.


Member


Vice-Chairman

trd
K/
14/3

17-4-97

21.4.97

Let the case be listed for hearing on 2.6.97.


Member


Vice-Chairman

pg
K/
22/4

2-6-97

The respondents have filed an affidavit in Misc.Petition No.94/97 stating inter alia that the schme 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 ~~is notified and we come to know about the scheme~~ it will be difficult for us and for that purpose Mr.Sharma prays for time till the scheme is notified. Mr.M.K.Gupta, learned Addl.C.G.S.C. submits that the scheme will be notified very soon, may be within 3 weeks. Mr.S.Ali learned Sr.CGSC

Ready to hearing.

(4)
O.A.22 241/96

2-6-97

and Mr.M.K.Gupta, learned Addl.CG.S.
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 adjourned the case to 7-7-97.

Member

Vice-Chairman

pg

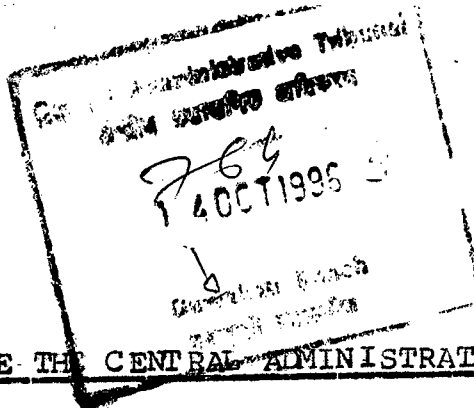
7.7.97

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

60
Member

XB
Vice-Chairman

trd



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

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

Title of the case : O.A. No. 241 of 1996

Shri Harish Chandra Barman & Ors. Applicants

- Versus -

Union of India & Others Respondents

I - N - D - E - X

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For use in Tribunal's office :

Received. Copy
Lab. Sr. CSSC
14/10/96

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Filed by
Nicholas
Adm.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL:: GUWAHATI BENCH

O.A. No. 241 of 1996

BETWEEN

1. Harish Chandra Barman,
2. Uddhab Ch. Das,
3. Kanak Sharma,
4. Jalil Ali
5. Madhab Ch. Das,
6. Miss Sikha Bhattacharjee,

All are working under the Central Water Commission, Middle Brahmaputra Division, Guwahati-3 and their respective place of working as indicated in Annexure-1 to the O.A.

... Applicants

AND

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Water Resources, ~~Shram~~ Shram Shakti Bhawan, New Delhi.
2. The Chairman, Central Water Commission, Sewa Bhawan, R.K.Puran, New Delhi.
3. The Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Rajgarh Road, Guwahati-7.
4. The Assistant Engineer, Mechanical Sub-Division, Central Water Commission, 6th Mile, Guwahati-22.

... Respondents

DETAILS OF THE APPLICATION

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

The instant application is not made against any

Contd...P/2.

particular order, but has been made seeking a relief towards regularisation of their services. Presenly they are under casual employment under the respondents and as per ~~they~~ ~~are~~ the scheme prevelant, they are entitled to be granted with temporary status with further regularisation of their services.

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the application for which they want redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

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

4. FACTS OF THE CASE :

4.1 That the applicants are all citizens of India and as such they are entitled to all the rights and privileges guaranteed by the Constitution of India and the laws framed thereunder.

✓ 4.2 That the applicants have filed the instant application for redressal of their grievances towards non-regularisation of their services as Grade-'D' employees. The grievances of the applicants and the cause of action for which the applicants have come before this Hon'ble Tribunal for redressal of the same are similar. They belong to lower

stratum of the society and they are holders of Grade-'D' post of casual basis and accordingly, crave leave of this Hon'ble Tribunal to allow them to join together in a single application invoking the power under rule 4 (5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

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

4.4 That the applicants state that as is reflected in Annexure-1 statement annexed in this O.A., they have been working under the respondents since 1983, 1982, 1982, 1986, 1993 and 1993 respectively. They were so appointed in Gr-D employment on casual basis after their names were sponsored through Employment Exchange and ~~was~~ they were selected for the post of work-charged casual khalasi. Their appointments are continuing from year to year and each year they are issued with appointment letters under which they are to work in Gr.'D' posts as work charged

seasonal khalasi in the definite scale of pay. Presently they are given pay scale of Rs 750-940/- which is the prescribed pay scale of Gr. 'D' employees. However, their services are terminated and/or they are kept in employment for a definite period and therefore, they are no longer engaged for the rest of the period in the year. Again in the next year, they ~~app~~ were appointed for a further period. Thus this process is going on since the time of their appointment and in spite of the fact that the Govt. of India has formulated a policy decision for grant of temporary status to the casual ~~xxx~~ employees ~~with~~ but the applicants are still deprived of the same benefit. Their services are rather being terminated from time to time.

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

The such appointments are not in dispute and thus instead of annexing all the appointment letters pertaining to all the orders, the applicants beg to annex one such of their appointment letters and the same is annexed as ANNEXURE-1.

~~xxx~~ The applicants crave leave of this Hon'ble Tribunal to produce all the appointment letters pertaining to their employment in Gr. 'D' posts as casual basis right from the respective date of their appointment at the time of hearing

of the instant application. It is the bonafide belief of the applicants that their such employments will not be disputed by the respondents.

4.6 That the applicants state that even after ~~render~~ rendering years of service as Gr. 'D' casual employees, their services have not been regularised and their respective services are being taken by the respondents in exploitative terms. As pointed out above, their services are utilised for a particular period in a year and after that their services are terminated and again in the next year, they are appointed for another period. This process has been going on since the days of their respective employments. Further, sometime during the intervening period, they are also given casual employment like that of any other Gr. 'D' casual employee. Thus, the case of the applicants stand thus all of them are duly sponsored by the employment Exchange and selected by the respondents for being appointed as casual and selected by the respondents for being appointed as casual Gr. 'D' employees, their services are being utilised every year for a particular period as work charged season khalasi. Till date their services are not regularised and they have not been conferred with temporary status as is required to be conferred to under the relevant scheme formulated by the Govt. of India.

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

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4.7 That the applicants state that some of the Gr.'D' employees of the Central Water Commission similarly situated with that of the applicants had approached the Principal Bench of this Hon'ble Tribunal, New Delhi by way of filing various O.As. wherein ~~some~~ kind of grievances have been raised in the instant application were raised. The Principal Bench of this Hon'ble Tribunal by its common Judgment dated 10.2.94 in O.A. Nos. 273/92, 804/92, 1601/92 and 2418/92 allowed the said O.As. with the following directions

"(i) The respondent shall ~~prepare~~ prepare a scheme for retention ~~of~~ and regularisation of the casual labour employ by them. This scheme should take into account the regular post, that can be created taking into account the fact that even if a particular scheme is completed, new scheme are launched every year and assessment of a regular post ~~are~~ that can be created on the basis, should be made for regularisation all those who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of services.

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

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

(iv) Such a scheme shall be submitted by the respondents for scrutiny of this Hon'ble Tribunal within a period of 3 months from the date of communication of this order by the petitioner to them.

There shall be no order as to cost. %

A copy of the said judgment is annexed herewith and marked as ANNEXURE-2.3

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

A copy of the said judgment dated 9.5.94 is annexed herewith as ANNEXURE-2.4

4.9 That pursuant to the said judgments the applicants therein have been granted temporary status and to the knowledge of the applicants all the applicants ~~and~~ therein have been continuing in their service without any interruption and break and they are enjoying the consequences of granting the temporary status. One of the applicants transferred to Shillong and he has been continuing as Gr.'D' employee on conferment of temporary status with all consequential benefits. After the aforesaid judgments, there has been no occasion to terminate the services of the applicants therein and they are enjoying the benefits of temporary status as per the scheme holding the field. The Central Water Commission has formulated and adopted the scheme as was formulated by the Government of India, Ministry of Personnel and Public Grievances with a slight modification here and there, more particularly as regard to the number of working days. The respondents may be directed to produce a copy of the same formulated by them under which the applicants are entitled to be conferred with temporary status with all consequential benefits.

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

4.11 That the applicants state that in view of the aforesaid judgment of the Principal Bench, pertaining to the said Department and same subject matter of employment for Gr. 'D' employees, there is no earthly reason as to why the benefit of the said judgment should not ~~ex~~ be extended to the present applicants. The respondents of their own ought to have extended the benefit of the said judgment to the applicants instead of making them to come under the protective hands of ~~this~~ this Hon'ble Tribunal.

4.12 That the applicants state that in view of the facts and circumstances stated above they are compelled to come under the protective hands of this Hon'ble Tribunal. Further it is stated that by

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Further it is stated that by the petitioners that the respondents have acted illegally and have acted in direct confrontation with the Hon'ble Tribunal's order.

4.13 That the applicants state that it is their reasonable apprehension that since they have come under the protective hands of this Hon'ble Tribunal, their services may not be continued and thus it is a fit case for an interim order directing the respondents not to terminate the services of the applicants till disposal of this instant application. It is further stated that by the respondents have undertaken several other projects works and there are post still lying vacant in the Department and hence there is no earthly reason as to why the services of the applicants should not be continued. Again on the other hand, the respondents have undertaken to prepare scheme to absorb the casual labours like that of the applicants, the applicants pray before this Hon'ble Tribunal further to pass appropriate interim order directing the respondents to allow the applicants in any Gr. 'D' posts.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

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

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

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5.3 For that there being a judgment holding the filed pertaining to the ~~gkxk~~ same department and the same subject matter, the departments and the respondents are duty bound to apply the principle laid down therein in case of the applicants also without requiring them to approach this Hon'ble Tribunal again and again.

5.4 For that the constitutional mandate demands that the services of the applicants be regularised and their service could not be utilised in an exploitative terms as ~~and~~ has been sought to be done by the respondents in the instant case.

5.5 For that the benefit of the scheme of regularisation and conferment of temporary status has ~~not~~ been extended to the other similarly situated employees, there is no earthly reason as to why the same treatment should not be given to the applicants.

5.6 For that the applicants have been treated differently and thus is violative of the articles 14, 16 and 311 of the Constitution of India.

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

5.8 For that the respondents are duty bound to give weightage to the services rendered by the applicants towards regularisation of their services and they cannot be

utilised in exploitative terms in violation of the provisions of constitutional mandates and laws framed thereunder.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants declare that they have no other alternative remedy except by way of filing this application.

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

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

8. RELIEFS SOUGHT :

In view of the facts and circumstances stated above, the applicants most respectfully pray that the instant application be admitted, records be called for and on perusal of the same and upon hearing the parties on the cause or cause that may be shown, be pleased to grant the following reliefs

- (1) To direct the respondents to regularise the services of the applicants with retrospective effect i.e. the respective dates of their appointments with all consequential benefits including arrear salary and seniority.

Contd.P/12.

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- (ii) To direct the respondents to extend the benefits of Annexure-3 Judgment and order of the Principal Bench of the Hon'ble CAT, New Delhi.
- (iii) To direct the respondents not to terminate the services of the applicant and to allow them to continue in their services through out the year till such time their services are regularised.
- (iv) Cost of the application
- (v) Any other relief or reliefs to which the applicants are entitled.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances stated above the applicants pray for an interim order directing the respondents not to terminate the services of the applicants with further direction to allow them to continue in their services without any interruption, pending disposal of this application.

10.

11. PARTICULARS OF THE I.P.O. :

- (i) I.P.O. No. : 8.11. 444462
- (ii) Date : 1-10-96,
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

Per

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

I, Shri Harish Chandra Barman, son of Late H.K. Barman, aged about 36 years, presentl~~y~~ working under Asstt. Engineer, Mechanical Sub-Division, 6th Mile, Guwahati-22, do hereby solemnly affirm and verify that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge ; those made in paragraph 5 are true to my legal advice and I have not suppressed any material fact. I am also duly competent and authorised to sign this verification on behalf of all the applicants.

And I sign this verification on this the 14th day of October 1996 at Guwahati.


Shri Harish ch. Barman.

Name -----	Place of work -----	Working since (May 15 to October 15) -----
1. Shri Harish Ch. Barman	CWC/Middle Brahmaputra Division	1983 to 1986
2. Shri Uddhab Ch. Das	-do-	1982 to 1996
3. Shri Kanak Sarma	-do-	1982 to 1984 and 1986 to 1996
4. Md. Jalil Ali	-do-	1986 to 1996
5. Shri Madhab Ch. Das	-do-	1993 to 1996
6. Miss Sikha Bhattacharjee	-do-	1993 to 1996.

....

HTC
Advant
14-10-96

Government of India
Central Water Commission
Middle Brahmaputra Division
Rajgarh Road :: Guwahati-781007

No.MLD/WC/ESTT-24(A)/96/2554-662 Dated the 6th May/1996

M E M O R A N D U M

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

Sl. no.	Name & address of the candidate	Employment exchange Regd.No.	Place of posting	Remarks
<u>P.P. Sub-Division, CWC, Nalbari.</u>				
1.	Md.Taizuddin Ahmed C/O Asman Ali P.O. & Vill. Belsor Dist. Nalbari.	<u>Guwahati</u> 951/93	P.P. Sub-Divn., CWC, Nalbari.	
2.	Shri Hamen Ch. Baishya Vill. Amiyapur P.O. Jangay Dist. Nalbari.	<u>Nalbari</u> 5281/86	-do-	
3.	Shri Labanya Kalita P.O. Sandha Vill. Sandha Dist. Nalbari.	<u>Nalbari</u> 368/79	-do-	
4.	Shri Eidiya Ram Haloi P.O. Barbari Vill. Jaymangules Dist. Nalbari.	<u>Nalbari</u> 1158/80	-do-	
5.	Shri Hitesh Sharma P.O. Sandha Vill. Sandha Dist. Nalbari.	<u>Nalbari</u> 3584/86	Pagladia N.T. Road King.	
6.	Md. Chirajuddin Ahmed C/O Khairat Ali P.O. Deharkalakuchi Vill. Kumarikata Dist. Nalbari.	<u>Guwahati</u> 921/93	-do-	
7.	Shri Nripen Kalita P.O. Amdha Vill. Sagalshari Dist. Nalbari.	<u>Nalbari</u> 977/89	Chowki	
8.	Shri Rameswar Kalita P.O. Sandha Vill. Sandha Dist. Nalbari.	<u>Nalbari</u> 469/80	Motunga site	
9.	Shri Narottam Barman Vill. Bolkona Dist. Nalbari.	<u>Nalbari</u> 861/81	Suklai Site.	
10.	Shri Kashi Ram Deka Vill. Satarkuchi P.O. Balilecha Dist. Nalbari.	<u>Nalbari</u> 336/84	Puthimari	

Attested.
Advocate.

Contd....P/2....

Sl. no.	Name & address of the candidate	Employment Exchange Recd. No.	Place of posting
11.	Shri Deepak Das Vill. Udaypur P.O. Nalbari Dist. Nalbari.	<u>Nalbari</u> 684/84	Suklai Site
12.	Md. Hussain Ali Vill. North Jalukbari P.O. Jalukbari Guwahati-14.	<u>Guwahati</u> 2023/83	Puthimari
13.	Shri Kumud Deka Vill. Nalicha P.O. Jagra Dist. Nalbari.	<u>Nalbari</u> 51851/79	Suklai site
14.	Shri Haren Ch. Das C/O Prafulla Kr. Das Arun Uday Press. Silpukhuri, Guwahati-3.	<u>Guwahati</u> 9125/82	Motunga site
15.	Shri Suchil Ch. Sharma Vill. Balsor P.O. Bogurihat Dist. Nalbari.	<u>Nalbari</u> 3588/79	D.R.I. Site
16.	Md. Gulzar Ali Vill. Salmara P.O. Belsor Dist. Nalbari.	<u>Nalbari</u> 1438/89	-do-
<u>D(S) - Kopili Sub-Divn., CWC, Nagaon.</u>			
17.	Shri Chitra Rajkhowa Vill. Hujkhutali P.O. Jus Rangachara Nagaon.	<u>Nagaon</u> 4582/85	D(S) - K Sub-Divn., CWC, Nagaon.
18.	Shri Babul Das P.O. Kalangpar Halowagaon Nagaon.	<u>Nagaon</u> 8234/82/85	-do-
19.	Shri Jiban Bhuyan P.O. Kalangpar Halowagaon Nagaon.	<u>Nagaon</u> 6884/84	Kheronighat
20.	Shri Umesh Ch. Gogoi Vill. Naragaon P.O. Golaghat Dist. Golaghat.	<u>Golaghat</u> 28/87	kampur
21.	Shri Chandra Kanta Phukan Chowkana P.O. Kachupathar Dist. Golaghat.	<u>Golaghat</u> 5047/86	Jagibhakatgaon
22.	Shri Hem Kanta Loing Vill. Mission Patty P.O. Golaghat.	<u>Golaghat</u> 1979/83	Golaghat W.T. Station
23.	Shri Manu Prasad Kalita Vill. Dighliate P.O. Bogoriguri Nagaon.	<u>Nagaon</u> 2966-82	Dharamtul
24.	Shri Rajen Kalita Tehiabharjoha P.O. Hoibargaon Nagaon.	<u>Nagaon</u> 1612/86/82	Gelatill Seasonal site.

Attested
Advocate

Contd...P/3.....

No.	Name & Address of the candidate	Employment Exchange Regd. No.	Place of posting	Remarks
25.	Shri Mukut Borah Vill. Khatikatia, Kolong par P.O. Haiborgaon Nagaon.	<u>Nagaon</u> 822/82/89	Gelabill Seasonal site.	
26.	Md. Firuj Ali Islampatty P.O. Golaghat Dist. Golaghat.	<u>Golaghat</u> 4852/86	-do-	
27.	Shri Golap Saikia Vill. Godarbari P.O. Chakulaghat Dist. Naga-on.	<u>Nagaon</u> 8941/82/80	Kheronighat	
28.	Shri Jogeswar Pathari Vill. Gutung P.O. Mohuwamukh Dist. Golaghat.	<u>Golaghat</u> 811/85	w/T Station Bokajan.	
29.	Md. Imran Hussain Vill. Mission patty, P.O. Golaghat.	<u>Golaghat</u> 4852/86	-do-	
30.	Shri Dhani Ram Nath P.O. Dighaldari Vill. Dighaldari Dist. Nagaon.	<u>Nagaon</u> 4592/95/84	Jagibhakatgaon	
31.	Suren Morang Vill. Bonkual P.O. Bonkual Dist. Golaghat.	<u>Golaghat</u> 2418/85	G&D Site, Golaghat.	
32.	Shri Mongla Loing P.O. Bonkual Vill. Barika Dist. Golaghat.	<u>Golaghat</u> 78/87	w/T Station Numaligarh	
33.	Shri Hemram Morang Vill. Bartika P.O. Bonkual Dist. Golaghat.	<u>Golaghat</u> 1979/93	-do-	
34.	Shri Durga Ram Dekadoloi Vill. Laophulabari P.O. Bogoriguri (Digholiate) Dist. Nagaon, P.S. Roha.	<u>Nagaon</u> 8541/82/83	Kampur site	
35.	Shri Hari Har Das Vill. Harimukh P.O. Raha Dist. Nagaon.	<u>Nagaon</u> 1227/85/84	Dharamtul site	
36.	Shri Mihidhar Das Vill. Kuarigaon P.O. Nating Dist. Golaghat.	<u>Golaghat</u> 5035/86	Golaghat w.T. Station.	
37.	Shri Pabitra Medhi Vill. Nayabali Ward No.1 P.O. Golaghat Dist. Golaghat.	<u>Golaghat</u> 2637/82	G&D Site Golaghat	
38.	Shri Suresh Ch. Jha C/O Binod Ch. Jha Vill. Dakhipat P.O. Baligaon Dist. Nagaon.	<u>Nagaon</u> 4471/92	Barapani under D(3)-K3D, CWC, Nagaon.	

Contd....P/4...

Dated.

Advocate

Sl. No.	Name & Address of the candidate	Employment Exchange Recd. No.	Place of posting	Remarks
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Manas Sub-Division, CWC, Barpeta Road.

- | | | | | |
|-----|--|---------------------------------|--------------------------------------|--|
| 39. | Shri Kanak Ch. Das
Vill. Sundardia
P.O. Sundardia
Dist. | <u>Barpeta</u>
1918/78 | Beki | |
| 40. | Shri Jaleswar Roy
Vill. Mowatary
P.O. Chapper
Dist. Dhubri. | <u>Kokrajhar</u>
279/ | Saralpara | |
| 41. | Shri Subhash Marzary
Vill. Mainamata Pathar
P.O. Mainamata.
Dist. Barpeta. | <u>Barpeta</u>
5176/86 | Panbari | |
| 42. | Shri Dilip Kumar Sarkar
Vill. Dewrikuchi
Dist. Barpeta | <u>Barpeta</u>
227
250/83 | Kokrajhar | |
| 43. | Shri Kishore Kr. Talukdar
Vill. Lalan
P.O. Akaya
Dist. Barpeta Road | <u>Barpeta</u>
3247/49 | Panbari | |
| 44. | Shri Narayan Ch. Das
C/O D.C. Das
M.B. Divn., CWC, Ghy.-7. | <u>Guwahati</u>
4211/82 | Dhubri | |
| 45. | Shri Atul Ch. Nath
Vill. Barpalaha
P.O. Kamalpur
(Assam). | <u>Guwahati</u>
3038/92 | Dhubri | |
| 45. | Mrs. Arifa Begum
C/O Tajuddin Ahmed
Vill. Muslimpatty
P.O. Barpeta. | <u>Barpeta</u>
957/83 | Manas sub-Divn.,
CWC, Barpeta Rd. | |
| 47. | Shri Madhu kumar Sarkar
Vill. Erartari
P.O. Era Lamundi
Barpeta. | <u>Barpeta</u>
3794/84 | -do- | |
| 48. | Shri Dilip Kr. Nath
Vill. North Barpeta Road
P.O. Barpeta. | <u>Barpeta</u>
3121/82 | Bijini site | |
| 49. | Shri Monoj Kr. Sarkar
Vill. Dewrikuchi
Dist. Barpeta. | <u>Barpeta</u>
5526/84 | Manas N.H. Xing | |
| 50. | Shri Hemanta Kr. Medhi
Vill. Demriya
P.O. Ehoakami, Via. Patshala,
Barpeta. | <u>Barpeta</u>
2104/80 | Bijini site | |
| 51. | Shri Rajib Kali
Kx Munipatty Ward No.5
P.O. Dhubri. | <u>Dhubri</u>
3554/84 | Saralpara | |
| 52. | Shri Dayal Ch. Doimari
Vill. Khutalpara
P.O. Senefuly
Barpeta. | <u>Barpeta</u>
1308/80 | Mathanguri | |

Ames ed.
Advocate.

Contd....P/5....

Sl. no.	Name & address of the candidate	Employment Exchange Regd. No.	Place of posting	Remarks
53.	Shri Dandi Ram Nath Vill. Anandapur P.O. Nityananda Barpeta.	<u>Barpeta</u> 5450/79	Manas N.H. Xing.	
54.	Shri Anil Boro Vill. Nizarapar P.O. Chandmari Guwahati-3.	<u>Guwahati</u> 1520/90	Aie site	
55.	Shri M.R. Lasumatary Vill. Cheechapani P.O. Magurmari Kokrajhar.	<u>Barpeta</u> 898/79	Kokrajhar	
<u>M.B. Sub-Division, CWC, Guwahati-3.</u>				
56.	Shri Niranjana Das Vill. Goral Barua para, P.O. Bhattapara Dist. Kamrup (Assam).	<u>Guwahati</u> 611/84	M.B. Sub-Divn., CWC, Guwahati.	
57.	Shri Bhabesh Ch. Das Vill. Amingaon Upper Bari, P.O. Amingaon, Guwahati.	<u>Guwahati</u> 4306/83	Pancharatna	
58.	Shri Sona Ram Nath Vill. Choudhuryghat P.O. Choudhuryghat Dist. Kamrup.	<u>Guwahati</u> 9322/83	-do-	
59.	Md. Mujibur Rahman Vill. & P.O. Lakhipur Dist. Goalpara.	<u>Goalpara</u> 9131/80	-do-	
60.	Md. Edul Haque C/O Md. Rafiq Haque North Jalukbari Guwahati-14.	<u>Guwahati</u> 3733/87	Pandu site	
61.	Md. Mir Kashim Ali C/O Md. Aziz Ali Vill. North Jalukbari P.O. Jalukbari, Guwahati-14.	<u>Guwahati</u> 1205/93	Pandu site	
62.	Md. Nur Hussain Vill. Katia Dolong P.O. Jalukbari, Guwahati-14.	<u>Guwahati</u> 3733/89	D.C. Court, Guwahati.	
63.	Shri Rabin Kalita Vill. Malaybari P.O. Malaybari Dist. Kamrup.	<u>Guwahati</u> Nil	M.B. Sub-Divn., CWC, Guwahati.	
64.	Shri Bandhab Kalita C/O S.R. Kalita, M.B. Sub-Divn., CWC, Rajgarh Rd., Guwahati.	<u>Guwahati</u> 1056/83	-do-	

Witnessed.
Advocate.

Contd...P/6...

no.	the candidate	Exchange Regd.No.	Place of posting
65.	Shri Akhil Pathak C/O Shri D.B.Chetty, H.O. Circle, CWC, Nabin Nagar, Janapath, Guwahati-24.	Guwahati 8580/83	D.C. Court Guwahati.
66.	Shri Karuna Kumar Baishya C/O Madhab Ch. Nath Chandmari Coloney Guwahati-3.	Guwahati 1947/89	Goalp ara
67.	Biren Choudhury Vill. Kandrapara P.O. Babaja (Tini Ali) Sonitpur.	Tezpur 6121/82	Seppa Site
68.	Shri Lakshi Neog Vill. Kaliagaon P.O. Sihuguri Sonitpur.	Tezpur 1020/82	Banasite
69.	Shri Hem Ch. Das Vill. Kaibarta Chuburi P.O. Dekargaon Dist. Sonitpur.	Tezpur 1655/87	Seppa Site
70.	Jyotish Kr. Das Vill. Patalar Chak P.O. Jamugurighat & Sonitpur.	Tezpur	Seppa Site
71.	Shri Siba Charan Nath Vill. Cowan Chak P.O. Wendikes Sonitpur.	Tezpur 1379/89	Jiabharali
72.	Md. Abdul Hakim Jogighopa Ferrighat Goalpara.	Goalpara 1026/81/87	Goalpara
73.	Shri Ealen Ch. Rava Vill. Earipara P.O. Singra Dist. Kamrup.	Guwahati 2785/84	Gaikandha
74.	Shri Rajsekhar Basumatari Vill. Chapaguri P.O. Chapaguri Dist. Sonitpur.	Tezpur 5081/91	W/T 3 tation Tezpur
75.	Shri Bijoy Kumar Sarma Vill. Dewrigaon P.O. Katakibari Dist. Sonitpur.	Tezpur 137/89	-do-
76.	Shri Seni Ram Bora Vill. Sugoli Chuburi Bhomoraguri, Sonitpur.	Tezpur 4891/85	Bhomoraguri
77.	Shri Miranjan Kalita Vill. Bhurapara (Kaliapara) C/O Krishna Kanta Kalita Bijoy Nagar, Kamrup.	Guwahati 6741/90	-d o-
78.	Shri Ham Ram Nath Vill. Kumar Chuburi P.O. Thelamara, Dist. Sonitpur.	Tezpur 4043/80	Bana Site

Contd.....P/7....

Filed.
Advocate.

Sl. No.	Name & address of the candidat	Employment Exchange Regd. No.	Place of posting	Remarks
79.	Shri Dharanidhar Kalita P.O. Sandha Vill. Sandha Dist. Nalbari.	<u>Nalbari</u> 1448/69	Bana Site	
80.	Shri Khagen Ch. Kumar C/O M.N. Kumar Bapuji School Ulukari, Guwahati-7.	<u>Guwahati</u> 186/87	Pandu site	
81.	Shri Haren Ch. Kakati P.O. Loch Vill. Dhulara Dist. Kamrup.	<u>Guwahati</u> 3761/90	M.B. Sub-Divn., CWC, Guwahati.	
82.	Md. Mainul Haque Vill. Dharapur (Majali) P.O. Dharapur, Guwahati-17.	<u>Guwahati</u> 18446/83	D.C. Court Guwahati.	
<u>M.B. Division, CWC, Guwahati-7.</u>				
83.	Shri Kanak Sharma C/O K.C. Sarma Vill. Titkushi Kamrup.	<u>Guwahati</u> 3410/87	Met Section	
84.	Shri Sankar Mahanta Vill. Rajaduwar P.O. Guwahati-30 Kamrup (Assam).	<u>Guwahati</u> 2023/83	Data Cell	
85.	Shri Sagar Cho. Dey, C/O Deben Das Near S.P. Bhattacharjee Kacharibasti Guwahati.	<u>Guwahati</u> 806/93	A.E. (Wireless)	
86.	Md. Jalil Ali C/O Md. Akbar Ali (Professor) S.K. Bhuyan Road, Guwahati-1.	<u>Guwahati</u> 4197/88	A.E. (Wireless)	
87.	Md. Abdul Rejak C/O Md. Lalan Seikh Vill. & P.O. Jalukbari, Guwahati-14.	<u>Guwahati</u> 5592/89	Met Section	
88.	Shri Gobinda Barman C/O Bongshi Kalita Chanikuthi Hill site Silpukhuri, Guwahati-3.	<u>Guwahati</u> 5073/	H.O. Circle, CWC, Guwahati-24.	
89.	Shri Madhab Ch. Das Vill. Katakibari P.O. Boramboi Dist. Kamrup (Assam).	<u>Guwahati</u> 5668/87	A.E. (Wireless)	
90.	Shri Uddhab Ch. Das C/O Padma Ch. Das, Vill. Barantola (Najo)	<u>Guwahati</u> 8244/45	Met Section	
91.	Miss. Sikha Bhattacharjee C/O E.B. Kar P.O. & Vill. Kahilipara Guwahati-18.	<u>Guwahati</u> 459/90	M.B. Sub-Divn. Guwahati.	
92.	Shri Dipul Deka Railway Colony, Bamunimaidan, Guwahati-21.	<u>Guwahati</u> 7294/85	-d o-	

Contd.....P/8....

Advocate.

The appointment is on "Ad-hoc" basis and is purely temporary and upto 15.10.96 (A.N.) or completion of work whichever is earlier without further notice.

The person concerned are hereby directed to report for his duties to the place of posting as mentioned above between 15.5.96 to 31.5.96 positively, otherwise the offer will be automatically treated as cancelled.

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

V.P. Shrivastava
(V.P. SHIV)
6.5.96

EXECUTIVE ENGINEER

Copy forwarded for information and necessary action to:-

1. The Assistant Executive Engineer/Assistant Engineer, Manas Sub-Division, C.C, Barpeta Road/D(S)-Kopili Sub-Divn., C.W.C., Nagaon/P.P. Sub-Division, CWC, Nalbari/M.E. Sub-Divn., C.W.C., Guwahati-3/A.E. (Wireless)/Met Section/Dat a Cell.
2. The Employment Officer, District Employment Exchange Barpeta/Dhubri/Kokrajhar/Nalbari/Tezpur/Nagaon/Goalpara/Guwahati/Golaghat.
3. Accounts Branch, M.B. Division, CWC, Guwahati-7.
4. Person concerned.

ar

Enclosed.

Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 223, 884, 1601, 2246 & 2418 of 1992

New Delhi, this the 10th day of February, 1994.

HON'BLE MR JUSTICE S.K. DHAN, VICE CHAIRMAN

HON'BLE MR B.N. DHONDYAL, MEMBER (A).

O.A. No. 223 of 1992

1. Vinod Kumar
S/O Shri Raman Singh
R/O F-25, Transit Camp,
Khichari Pur,
Delhi.
2. Ram Kumar
S/O Shri Ratan Singh.
RZ-139, X - Block-II,
New Roshan Pura, Najafgarh,
New Delhi.
3. Yash Pal Singh
S/O Shri Devi Singh,
WZ-288, Vill. & P.O. Naraina,
New Delhi.
4. Parmod Kumar
S/O Shri Bijli Singh
No. 421, Sewa Nagar,
New Delhi.
5. Narendra Paswan,
B-50, Naharpur, Sector 7,
Rohini, Delhi.

.. .. Applicants.

(through S.N. Shukla, Advocate).

O.A. No. 884/1992

1. Sewak Ram,
S/O Shri Hari Ram
R/O G-195, Sector 10,
Faridabad (Haryana).
2. Suresh Kumar
S/O Shri Om Parkash
R/O Village Sidipur Lona
P.O. Bahadur Garh,
District Rohtak (Haryana).

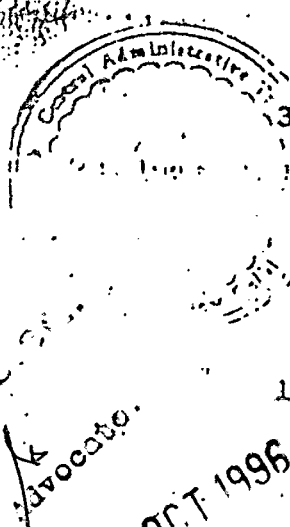
3. Nand Kumar
S/O Shri Vishal Chand
R/O S 27/B-303, Railway Colony,
Gughlakabad,
New Delhi.

.. .. Applicants.

(through S.N. Shukla, Advocate).

vs.

1. The Chairman, Central Water Commission,
Govt. of India, Ministry of Water Resources,
Sewa Bhawan, Sector 1, R.K. Puram, New Delhi.



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

(through Mr Jog Singh, Advocate).

O.A.No.1601 of 1992

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

(through B.S.Maine, Advocate).

O.A.No.2245 of 1992

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

(through B.S.Maine, Advocate).

O.A.2418 of 1992

1. Shri Rajender Sharma
S/O Shri Bhagwan-Sharma
Carpenter, Central Stores Divn.,
Central Water Commission,
West Block No.1, Wing No.4,
2nd Floor, R.K.Puram,
New Delhi.
2. Shri Raju Kashyap, S/O
Shri Nikka Ram;
3. Shri Daya Ram S/O Ganga Ram.
4. Shri Dali Singh S/O Bhup Singh.
5. Shri Giri Raj S/O Mishri Singh
6. Shri Bijendra S/O Tota Ram.
7. Shri Ram Kumar Rai S/O Hardev Rai.
8. Shri Udai Kumar S/O Sh.Kurukul.

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

..... Applicants.

(through B.S.Maine, Advocate).

vs.

1. The Secretary, Ministry of Water Resources
Sriam Shakti Bhawan, New Delhi.
2. The Chairman, Central Water Commission
Sena Bhawan, R.K.Puram, New Delhi.
3. The Executive Engineer, Central Stores Divn.,
Central Water Commission, R.K.Puram, New Delhi.

..... Respondents
(in all three above Q.As)

(through Mr Jog Singh in 1991 and 2445/92 and
through Mr. P.P.Khurana in Q.A.No.2418 of 1992).

14 DEC 1996
Advocate.

- 25 -

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ORDERB.N.DHOUNDIYAL, MBABER(A)

The applicants, in all the above-mentioned O.As have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K.Nuram, New Delhi. One of them, Shri Jayant Kumar Pathak, was engaged as Casual Labourer on 2.1.1987 but claims to have been working against the post of regular electrician w.e.f. 7.12.1987. The date of engagement of the applicants ranges between 1.10.1982 to 5.9.1988 in case of O.A.No.223/92, between 15.4.1986 to 26.10.1987 in case of O.A.No.884/92, between 6.1.1987 to 7.9.1990 in case of O.A.No.2418/92. Shri Rajesh Kumar Sini (applicant in O.A.No.1501/92) was engaged on 19.2.1988 and Shri Jayant Kumar Pathak (applicant in O.A.No.2246/92) was engaged on 2.1.1987. In some of the O.As, prayer has been made for issuance of a direction to the respondents to prepare a scheme on rational basis for absorption of Casual Labourers and for not disengaging the applicants till such a Scheme is prepared. In all the cases, interim orders were passed by this Tribunal, restraining the respondents from terminating the services of all the applicants. They are continuing till date.

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

Advised.
Advocate.

14 OCT 1986

provide for appointment of Khalasis by direct recruitment through selection by a selection committee of which the Executive Engineer is the Chairman. The posts of Casual Khalasis etc. are provided in the working estimates for a definite period and the services of these workers are terminated after that period. In case of Jayant Kumar Pathak (C.A.No.2245/92), it has been stated that the applicant was appointed as an adhoc work-charged Khalasi from 3.8.1987 and later on he was offered appointment as Assistant Electrician on ad hoc basis at minimum fixed basic pay of Rs.1100/-. However, this appointment was for a specific period, though with breaks, the applicant continued to work against vacancies in different works. They have, however, admitted that during the years 1989 to 1991, he worked for more than 240 days in all the three years.

3. We have gone through the records of the case and heard the learned counsel for the parties. Sri B.S.Mainee, learned counsel for the applicants has drawn our attention to the following observations made by the Hon'ble Supreme Court in case of State of Haryana and others vs. Pura Singh and others, 1992(3) Vol.45 S.C.R.34:

"The proper course would be that each State prepares a scheme, if one is not already in vogue, for regularisation of such employees, consistent with its reservation policy and if a scheme is already framed, the same may be made, consistent with our observations herein so as to reduce avoidable litigation in this behalf. If and when such person is regularised, he should be placed immediately below the last regularly appointed employee in that category, class or service, as the case may be.

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

Attested.

Advocate

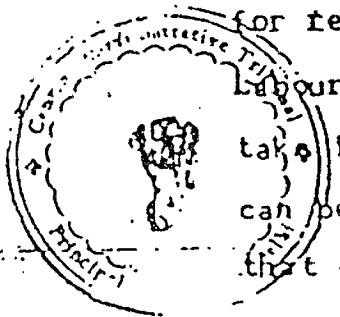
14 OCT 1996

-5-

be to regularise them as far as possible and as clearly as possible subject to their fulfilling the qualifications, if any, prescribed for the post and subject also to availability of work. If a casual labourer is continued for a fairly long spell - say two or three years - a presumption may arise that there is regular need for his services. In such a situation, it becomes obligatory for the concerned authority to examine the feasibility of his regularisation. While doing so, the authorities ought to adopt a positive approach coupled with an empathy for the person....."

4. As the applicants have been working for a long period, through intermittently, their cases have to be considered in light of the above observations of the Hon'ble Supreme Court as also directions issued by the Government from time to time. It may be noted that in accordance with these directions, a special Scheme for regularisation of the Casual Labourers have been prepared by the Railways, Post and Telegraphs and other Departments. In the circumstances of this case, we dispose of these applications, with the following directions:

- (i) the respondents shall prepare a scheme for retention and regularisation of the Casual Labourers employed by them. This scheme should take into account the regular posts, that can be created, taking into account the fact that even if a particular scheme is completed, new schemes are launched every year. An assessment of the regular posts that can be created on this basis should be made. For regularisation, all those, who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of service;



Attested.

By
Secretary.

9 4 OCT 1996

Am

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

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

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

5. There shall be no order as to costs.

(B.N.Dhondiyal)
Member(A)

(S.K.Dhaon)
Vice Chairman

/sds/

RECEIVED
17/10/96
Cyl
7-10-96
Section Officer
General Administration
17/10/96

Attested.

4 OCT 1996

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Faridkot House
Copernicus Marg,
New Delhi-1.

Dt. 30/5/94

To

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

To

1. Sh. Jog Singh
counsel for the applicant in RA
1108, Prakash Deep, 7, Tolastot Marg,
New Delhi.

Versus

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

2. Raju Kashyap S/o Sh. Nikka Ram

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

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

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

6. Sh. Bijendra S/o Sh. Tota Ram

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

Sacy. Mini. Water Resources

Applicants

RA 172/94 in
U.A. No. 2418/92

VS

Rajender Sharma & Ors.

Respondants

Sir,

I am directed to forward herewith a copy of Judgment/Order dt.
9/5/94 passed by this Tribunal in the above mentioned case
for information and necessary action, if any.

Yours faithfully,

SECTION OFFICER (J-II)

Attested.

9 4 OCT 1996

-30 27-36

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Administrative Tribunal
Bench, New Delhi.

RA-165/94 in CA-2246/92, RA-171/94 in CA-1601/92
and RA-172/94 in CA-2418/92.

New Delhi the 9th Day of May, 1994.

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

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

1. The Secretary,
Ministry of Water Resources,
Shram Shakti Bhavan,
New Delhi.

2. The Chairman,
Central Water Commission,
Sewa Bhavan, R.K. Puram,
New Delhi.

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

Review Applicant -/-
respondents in CA.

(through Sh. Jyoti Singh)

RA-165/94 in CA-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 CA.

RA-171/94 in CA-1601/92

Shri Rajesh Kumar Saini,
S/o Shri Veer Sain Saini,
Workcharge Kullabi,
under Executive Engineer,
Central Stores Division,
Central Water Commission
West Block No. 1, Wing No. 4,
2nd Floor, R.K. Puram,
New Delhi.

Respondent in RA/
Applicant in CA

RA-172/94 in CA-2418/92

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

- 27 - 81 31
- 2 -
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. Hari Ram.
 8. Sh. Udal Kumar,
S/o Shri Kurukul.

Respondents in RA/
Applicants in DA.

(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 orders/judgment delivered
on 10.02.94 in O.A. Nos. 223, 884, 1631, 2246 & 2418 of
1992. The following directions were given:-

- (i) the respondents shall prepare a scheme for retention and regularisation of the Casual Labourers employed by them. This scheme should take into account the regular posts, that can be created, taking into account the fact that even if a particular scheme is completed, new schemes are launched every year. An assessment of the regular posts that can be created on this basis should be made. For regularisation, all those, who have completed 240 days service in two consecutive years, should be given priority in accordance with their length of service;
- (ii) Those, who have complete 120 days of service should be given temporary status in 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;

Amended.

Advocate.

9 4 OCT 1996

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

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

The review applicants claim that though the impugned order is very much legal and has been passed after giving considerable thought, it would result in retention of junior people while rendering the senior people surplus. It is their contention that due to financial constraint and completion of works in hand W/C staff under different categories from both Central Store Division as well as Planning Division are likely to be rendered surplus after 31.3.1994. It has also been mentioned that the Ministry of Finance has emphasised surrender of 10% of existing post under W/C Estt. also for declaring 10% post on W/C establishment. They have stated that due to financial constraints and lack of schemes, the applicants were not entitled for any regularisation of their services.

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

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(2)

established principles.

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

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

(S.N. CHANDRAN)
MEMBER(S)

(S.K. JAYAN)
VICE-CHAIRMAN

/vv/

Original sent to
for file
Adm. Secy
T.S. 77
CC
C.A.T. P.B.
Nuc. Dir.

Arrested.

4 OCT 1996

Section Officer

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

In the matter of

O.A. No. 241 of 1996
Shri Harish Ch. Barman & Ors.

Vs

Union of India & Ors.

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

The humble Respondents submit their
written statements as follows:-

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

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

Filed by:

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C. K. Choudhary
(M.D. SHAUKAT 3/12/97)
4, Central Govt. Standing Committee
Central Administrative Tribunal
Guwahati Bench, Guwahati

The scheme of 1993 is not applicable to the casual/ adhoc Khalasis/seasonal Khalasis of workcharged establishment and for those categories, a separate scheme as per the direction of Central Administrative Tribunal Calcutta Bench has already been drafted by C.W.C. and Ministry of Water Resources and is being circulated to concern Ministries and Departments for their comments/ observations within a fixed time frame and immediately thereof the cabinet approval would be sought as per transaction of Business rules. It is further stated that as and when the said scheme is approved, the individual applicant's case would be considered.

2 & 3 Paras 2 & 3 require no reply.

4.1 Contents of 4.1 requires no reply.

4.2 to 4.6 That with regard to statements made in the para 4.2, 4.3, 4.4, 4.5 and 4.6, the Respondents beg to state that the statement made by the applicants that they are holders of Group 'D' posts on casual basis is not correct. The applicants are seasonal Khalasis engaged in workcharged establishment. The Respondents further beg to state that as mentioned ⁱⁿ para 1 hereinabove the 1993 scheme is not applicable to the seasonal Khalasis engaged in workcharged establishment. The Respondents further beg to state that as mentioned in para 1, the seasonal Khalasis are engaged in workcharged establishment for a specific purpose i.e. for assisting in collection and handling of hydrological data for flood forecasting from respective rivers during monsoon from 15th May to 15th October every year. Accordingly they are engaged every year and same kind of letters are issued every year. This fact is always mentioned in their engagement letters. As per the knowledge of the Respondents, the applicant at sl.no.6 was engaged during intervening period in the year 1988 only due to exigency of work for handling of hydrological data.

4.7 to 4.9 Contents of para 4.7 to 4.9 are not correct and denied. Respondents beg to state that the judgment referred to here pertains to those who have been working as Khalasis, Carpenter, Mistries, Motor Mechanics, Drivers and Electricians on adhoc basis and not to the seasonal Khalasis engaged in workcharged establishment who works for a limited period for a specific work. It is further stated that the seasonal Khalasis are not adhoc employees. The Respondents further beg to state they are not aware of any seasonal Khalasi who has got the benefit of the above judgment and posted to Shillong. The Respondents further beg to state that applicants may indicate the name and his earlier designation of the seasonal Khalasi, who is stated to have been posted to Shillong. It is respectfully stated that the judgment of this Hon'ble Tribunal, Principal Bench, as referred, is not applicable in the facts & circumstances of the present case. It is further stated that 1993 scheme is also not applicable. It is further stated that as submitted hereinabove the scheme for grant temporary status and regularisation of seasonal Khalasis is not yet finalised, the case of individual applicant would be considered on finalisation of the scheme.

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

4.11 That with regards to statements made in paragraphs 4.11 of the applications, the Respondents beg to state that the judgment referred in

the paragraph was specifically meant for the employees who have been working as Khalasis, Carpenter, Mistries, Motor Mechanics, Drivers and Electricians on adhoc basis and not to the seasonal Khalasis engaged on workcharged establishment for a specific purpose and for specific period. It is further stated that the seasonal Khalasis are not adhoc employees. As such the said judgment is not applicable in the facts and circumstances of the present case.

4.12 Contents of para 4.12 are wrong & denied. It is denied that the Respondents have acted illegally, as alleged. It is further denied that they have acted in direct confrontation with the Hon'ble Tribunal's order, as alleged. It is stated that the Respondents have highest regard for the majesty of the Hon'ble Tribunal.

4.13 That with regard to statement made in para 4.13 of the application, the Respondents beg to state that the interim order passed by the Hon'ble Tribunal has already been modified. The Respondents further beg to state that the scheme for grant of temporary status and regularisation of the services of seasonal Khalasis has already been drafted by C.W.C. and Ministry of Water Resources and at present is being circulated to concern Ministries and Departments for their comments/ observations within a fixed time frame and immediately thereof the cabinet approval would be sought as per transaction of business rules. It is further stated that as and when the said scheme is approved, the individual applicant's case would be considered.

5. That with regard to statements made in paragraph 5 of the application, the Respondents beg to state that regarding grounds for relief with legal Provision the Respondents beg to state that none of the grounds are maintainable in law as well as in fact and as such the application is liable to be dismissed.

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

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

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

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

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

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

I, V.P.Shiv, Executive Engineer, Middle Brahmaputra Division, C.W.C., Rajgarh Road, Guwahati-7 and Respondent No.3, do hereby solemnly declare that the statement made above are true to my knowledge, belief and information based on official records. Legal submission made therein are true upon legal advice received and believed to be correct. I sign this verification on this First... day of February 1997 at Guwahati.

V.P.Shiv
DECLARANT