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6

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

Basit
31.1.18

C

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

CASE NO. 253 /96.

Karuna Kanty Baishya & ors. Applicant(s)

- Versus -

U.O.I. & ors. Respondent(s)

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

Advocate for the applicant(s)

Mr. S. Ali, Sr.C.G.S.C.

Advocate for the Respondent(s)

OFFICE NOTE	DATE.	Court's Orders.
<p>This application is in form and within time C. F. of Rs. 50/- deposited vide - IPO/BD No 8.11.96 44487 Dated ... 2.10.96 ...</p> <p><i>J. Sarma</i> By Registrar, 30/10/96.</p> <p>8.11.96 at 30/10</p> <p>Cop of order issued to the parties concerned vide D.No. 3681-3 (85 Dt. 8.11.96) Cop of order issued to office to take out of order 2708 14.11.96 Machine.</p> <p>Cop of Notice received by her on behalf of respondents No. 1, 2, 3.</p> <p>16.11.96 Notice duly served on respondents No 1, 2, 3.</p>	<p>31-10-96</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. B.K. Sharma for Admission.</p> <p>The applicants were Seasonal Khalasi of the Central Water Commission working under the Middle Brahmaputra Division. They have prayed for allowing them to join in this single application. Permission for joining in this application is allowed to the applicants in terms of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules 1987 as then terms and conditions mentioned therein are fulfilled.</p> <p>Perused the contents of the application and relief sought. Application is admitted. Issue notice on the respondents by registered post. Written statement within six weeks. List for written statement and further order on 16-12-96.</p> <p>Mr. B.K. Sharma prays for an interim order. The services of these applicants stood terminated in the afternoon on 15.10.96</p>

contd/-

31-10-96 Mr.Sharma submits that the applicant could not approach this Tribunal in time due to unavoidable circumstance beyond their control as they were posted in remote areas and could not leave their duties to take legal action in time. He has also submitted that the applicants are similarly situated as those other Seasonal Khalasis under the Central Water Commission who had approached this Tribunal in time and in whose case the respondents were directed by this Tribunal to finalise the scheme of regularisation within three months from 15-10-96. In those cases the respondents were further directed to take sympathetic view and to provide work to the applicants pending finalisation of the scheme and that their services should not be terminated pending finalisation of this scheme without leave of this Tribunal. In this connection he refers to the order dated 15-10-96 in M.P. 153/96 to 161/96. Therefore, he submits that the applicants in this case are entitled to be granted similar reliefs. Mr.S.Ali, Sr.C.G.S. submits that the services of the applicants had ended on 15-10-96 (AN) and opposes grant of interim reliefs. Heard counsel of both sides as the applicants in this case are similarly situated with the other Seasonal Khalasis of the Central Water Commission except that they did not approach this Tribunal in time, the competent authorities respondents are hereby directed take a sympathetic view and provide works to the present applicant within 15 days from to-day and they have been so provided th

31-10-96 services of the applicants shall not be terminated without leave of this Tribunal.

lm
31.10.96
Member

lm

11.12.96 Vide order today in M.P.196/96 the interim order dated 31.10.96 has been modified.

Member

10-1-97

written statement has not been submitted.

pg

18.12.96 None for the applicant. Mr S.Ali, Sr.C.G.S.C for the respondents seeks time upto 13.1.97. for submission of written statement.

List for written statement and further orders on 13.1.97.

lm
Member

pg
19/12

15.1.97 Learned counsel Mr S. Sarma for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents, seeks one month time to submit written statement.

List for written statement and further orders on 12.2.97.

lm
Member

4-2-97

D/S filed by the Respts.

nkm
15/1

*notice duly send on Respts no. 1-3.
1) w/s statement - by Mr S. W.
2) Name ab. appearance by Mr S. W.
11/2 was bid by Mr S. Ali for (C.G.S.C.)*

(A)

12.2.97

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

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

[Signature]
Member

[Signature]
Vice-Chairman

6-3-97

1) Written statement has been submitted on behalf of the respondents.

2) NO rejoinder has been filed.

3) Memo of appearance not yet filed.
W
6/3

pg
2/8/2

10.3.97

Let the case be listed on 21.4.1997 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

17-4-97

trd
W
143

Ready for hearing. 21.4.97

Let the case be listed for hearing on 2.6.97.

[Signature]
Member

[Signature]
Vice-Chairman

30.5.97.

Memo of appearance not yet filed.
W
30/5

pg
24A
2.6.97

The respondents have filed an affidavit in Misc.Petition No.94/97 stating inter alia that the scheme has since been approved and it is likely to be notified. In view of the above Mr.B.K. Sharma, learned counsel appearing on behalf of the applicant submits unless the scheme is notified and we come to know about the scheme 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. submits that the scheme will be notified very soon, may be within 3 weeks

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2.6.97 Mr.S.Ali, learned Sr.C.G.S.C. and Mr.M.K.Gupta, learned Jdl.C.G.S.C. also agreed that the matter should be heard after the publication of the scheme.

Considering the submissions of the learned counsel for the parties we adjourned the case till 7-7-97.

17/5. abs have been filed.
AD
47

[Signature]
Member

[Signature]
Vice-Chairman

pg

5
3/6

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

[Signature]
Member

[Signature]
Vice-Chairman

trd

Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
 845
 200071396
 Guwahati Bench
 गुवाहाटी न्यायालय

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
 GUWAHATI BENCH

(An application u/s 19 of the Administrative
 Tribunal Act, 1985

Title of the Case : O.A. No. 253 of 1996

Karuna Kanta Baishya & Ors. Applicants
 Union of India & Ors. -Vs- Respondents

I N D E X

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*Copy Demand
 for Sr. C & SC
 Mr. S. Ali*

For Use in Tribunal's Office

Date of filing :- 30-10-96

Ddsignation :- *D. Suman*

Signature 30/10/96

6 Registrar.

\$
Filed by
Bishwajit Barua
30-10-96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. No. 253 /96

BETWEEN :

1. Karuna Kanta Baishya
2. Harendra Ch. Das
3. Mr. Abdul. Hakim
4. Balen Ch. Rava.
5. Khagen Ch. Kumar
6. Anil Bora
7. Rajsekhar Basumatary.

All the applicants are working under Central Water Commission and their respective places at posting are reflected in Annexure-1 to the OA.

..... Applicants.

- AND -

1. Union of India, represented by the Secretary to the Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
2. The Chairman, Central Water Commission, Seva Bhawan, R.K. Puram, New Delhi.
3. The Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Gauhati-7 (Rajgarh Road)

..... Respondents

DETAILS OF THE APPLICATION

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

The instant application is not made against any

Contd....P/2

V

/ 2 /

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

2. JURISDICTION OF THE TRIBUNAL :

That the applicants declare that the subject matter of the application for which they want redressal is well within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The applicants further declare that the application is within the limitation period prescribed under section 21 of the Administrative Tribunal 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 Gr. 'D' employees. The grievances of the applicants and the cause of action for which the applicants have come before this Hon'ble Tribunal for redressal of the same are similar. They belong to lower

stratum of the society and they are holders of Gr. 'D' posts on casual basis and accordingly Crave Leave of this Hon'ble Tribunal to allow them to join together in a single application invoking the power under Rule 4 (5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

(4.3) That the applicants are all similarly situated, their grievances are regarding to regularisation of 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-A to the instant O.A. In the said Annexure, the applicants have given their services particulars in details and crave leave of the Hon'ble Tribunal to refer to the same in support of their contention made in this application instead of repeating the said contention.

(4.4) That the applicants state that, as is reflected in Annexure '1' statement annexed in this O.A., they have been working under the respondents since 1986, 1981, 1986, 1986, 1982, 1991 and 1992 respectively. They were so appointed in Gr.D employee on casual basis after their names were sponsored through Employment Exchange and they were selected for the post of work-charged casual Khalasi. Their appointments are continuing from year to year and each year they are issued with appointment letters under which they are to work in Gr.'D'

Posts as work charged seasonal Khalasi in the definite scale of pay. Presently, they are given pay scale of Rs.750/- to 940/- which is the prescribed pay scale of Gr.'D' employees. However, their services are terminated and/or they are kept in employment for a definite period and therefore, they are no longer engaged for the rest of the period in the year. Again, in the next year, they appointed for a further period. Thus, this process is going on since the time of their appointments and in spite of the fact that the Govt. of India has formulated a policy decision for grant of temporary status to the casual employees which 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 letter on casual basis .

Their such appointments are not in dispute and thus instead of annexing all the appointments letters pertaining to their services, the applicants beg to annexed one such of their appointments letters and the same are annexed as ANNEXURE-2

The applicants crave leave of the Hon'ble Tribunal to produce all the appointment letters pertaining to their employments in Gr. 'D' posts as Casual basis right from the respective date of their appointment at the time of hearing of the instant application. It is the bonafide belief of the applicants that their such employments will not be disputed by the respondents.

(4.6) That the applicants state that even after rendering years of service as Gr. (D) casual employees, their service have not been regularised and their services are being 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 ---- 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.

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

(4.7) That the applicants state that some of the Gr. 'D' employees of the Central Water Commission similarly situated at with that of the applicants had approached the Principal Bench of this Hon'ble Tribunal, New Delhi by way of filing various O.A.s wherein some kind of grievances have been raised as in the instant case were raised. The Principal

Bench of this Hon'ble CA.T. by its common judgement dt. 10.2.94 in O.A. No. 273/92, 804/92, 1601/92 and 2418/92 allowed the said O.As with the following directions (i)

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

(ii) Those who have completed 120 days of services should be given temporary status in accordance with the instructions issued by the Department of Personnel from time 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 retain in reference to their juniors and outsiders.

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

Contd.....P/7

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"There shall be no order as to costs".

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

(4.8) That the applicants state that the said judgements was carried on review by the respondents therein but the same was dismissed by the Hon'ble Tribunal by its order and judgement dated 9.5.91.

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

(4.9) That pursuant to the said judgements the applicants therein have been granted temporary status and to the knowledge of the applicants, all the applicants therein have been continuing in their service without any interruption and break and they are enjoying the consequence of granting the temporary status. One of the applicant transferred to Shillong and he has been continuing as Gr. 'D' employees on conferment of temporary status with all consequential benefits. After the aforesaid judgement, 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 Govt. of India, Ministry of Personnel & Public Grievances with a slight modification here and there, more particularly as regard to the number of working days. The ~~respondents~~ respondents may be directed to

produce a copy of the same formulated by them under which the applicants are entitled to be conferred with temporary status with all consequential benefits.

(4.10) That the applicants state that the respondents instead of being a model employer has envisaged 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 state under which they can neither go for other employment nor can they 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 along with their families are in precarious predicament.

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

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

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

(4.13) That the applicants state that the applicant No.2 had approached this Hon'ble Tribunal by way of filing O.A. 206/94 and this Hon'ble Tribunal Vide its order dated 1.11.94 disposed of his said application directing the respondents to consider his case sympathetically but till date nothing has been done by the respondents ^{Since} on that point of time, some other similarly situated persons like that of the applicant No.2, as well as the other applicants, had also approached this Hon'ble Tribunal (namely Anima Talukdar, Babul Ali and Md. Ainuddin Ahmed belongs to 1986 batch), by way of filing various O.As and this Hon'ble Tribunal was pleased to issue direction in their favour and pursuant to which they are still continuings in their respective service enjoying the full service benefits alongwith senioritys. Hence there is no earthly reason as to why same benefit has not yet muted out to the present applicants also.

(4.14) That the applicants further state that some similarly situated persons like that of the applicants belongs to same department have approached this Hon'ble Tribunal before their termination and this Hon'ble Tribunal was pleased to pass interim order directing the respondents not to terminate their service without the leave of this Hon'ble Tribunal. The applicants respectfully submit that due to some unavaiable circumstance beyoned their control, they could not approach this Hon'ble Tribubal before their tirmination. ~~Again~~ The applicants were posted at very remote areas and they were not ^{a position} been able to leave the service before their termination

because of shortage of man power in their respective sites, at least to obtain legal aid for approaching this Hon'ble Tribunal beforehand. Be that as it may, on similar circumstances the Hon'ble ^{Gauhati} High Court in regard to some employees under state Govt, has protected their service even after their termination. The applicants crave leave of this Hon'ble Tribunal to produce a copy of order passed by the Hon'ble Gauhati High Court at the time of hearing of this O.A.

(4.15) That in view of the above facts and circumstances it is crystal clear that the respondents have treated them differently. The law is settled that, if some benefit is given to some particular set of employees, then automatically the other similarly situated employees should also be given the said benefit without requiring them to approach the court of law.

(4.16) That the applicants state that it is their reasonable apprehension that since they have come under the protective hands of this Hon'ble Tribunal, their services may not be continued and this it is a fit case for an interim order directing the respondents ~~not~~ to ^{continue} terminate the services of the applicants till disposal of this instant O.A. It is further stated that by the applicants that the respondents have undertaken several other project works and there are posts still lying vacant in the Department and hence there is no earthly reason as to why the services of the applicant should not be continued. Again on the other hand the respondents have undertaken to prepare scheme to absorb the casual labour like that of the applicants, the applicants pray before this Hon'ble Tribunal further to pass appropriate interim order directing

the respondents to allow the applicants in any Gr. 'D' posts.

£. GROUND FOR RELIEF WITH LEGAL PROVISIONS :-

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

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

(5.3) For that there being a judgement holding the filed pertaining to the same department and the same subject matter, the Departments and the respondents are duty bound to apply the principles laid down therein case of applicants also without requiring them to approach the Hon'ble Tribunal again and again.

(5.4) For that the constitutional mandate demands that the services of the applicants be regularised and their services could not be utilised in expeditious terms as has been done by the respondents in the instant case.

(5.5) For that the benefit of the scheme of regularisation and conferment of temporary status have not been extended to the other similarly situated employees, there is no earthly reasons as to why the same treatment should not be noted out to the applicants.

(5.6) For that the applicants have been treated differently and thus is violation of article 14 and 16 of the constitution of India.

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

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

6. DETAILS OF REMEDIES EXHUSTED :-

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

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

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

8. RELIEF SOUGHT FOR :-

In view of the facts and circumstances stated above it is most respectfully prayed that the instant application be admitted records be called for and on perusal of the same and upon hearing the parties on the cause or causes that may be shown be pleased to grant the following reason.

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

(8.2) To direct the respondents to extend the benefits of Annexure-3 judgement and order of the Principal Bench of the Hon'ble C.A.T. New Delhi.

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

(8.4) The cost of the application.

Any other relief or reliefs to which the Hon'ble Tribunal deem fit and proper.

9. ~~INTERIM ORDER~~ INTERIM ORDER PRAYED FOR :

Under the facts and circumstances stated above the applicants prayed for an interm order directing the

Km

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/ 14 /

respondents to allow them to continue in their services without any interruption.

10. The application has been filed through Advocate.

11. Particulars of the I.P.O.

I.P.O. No. :- 8. 11. 444487.

Date :- 3/10/96.

Payable at : G.P.O. Gauhati.

12. LIST OF INCLOSURES :

As stated in the Indes.

Verificat-ion -----

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Handwritten signature

/ 15 /

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

I, Shri Karuna Kr. Baishya, Lt. H. Baishya aged about 35 years, at present working as reasonal Khalasi under C.W.C., Division M.B. Division do hereby solemnly affirm, and verify that the statements made in paragraphs 1 to 4 and 6 to 12 of the accompanying application are true to my knowledge and those made in paragraph 4 are true to my legal advice, and I have not suppressed any material facts.

And I am the applicant No. 1 of the instant O.A. and as such I am competent to swear this verification. which I signed on this the 22nd day of Oct. 1996.

Km

Shri. Karuna Kanta Baishya.

(SRI KARUNA KANTA BAISHYA)

SIGNATURE OF THE APPLICANT

SERVICE PARTICULARS OF THE APPLICANTS:-

<u>NAME.</u>	<u>PLACE OF POSTING.</u>	<u>WORKING SINCE.</u>
1. Karuna Kanta Baishya.	C.W.C. Middle Brahmaputra Divn. Goalpara Site.	... 1986.
2. Haren Ch Das.	C.W.C. M.B.Divn. Motunga Site.	... 1981.
3. Abdul Hakim.	C.W.C.M.B.Divn. Goalpara Site.	... 1986.
4. Balen Ch. Rava.	C.W.C.M.B.Divn. Gaibandha Site.	... 1986.
5. Khagen Ch. Kumar.	C.W.C.M.B.Divn. Pandu Site.	... 1982.
6. Anil Boro.	C.W.C.M.B.Divn. Aie Site.	... 1991.
7. Rajsekhar Basumatary.	C.W.C.M.B.Divn. W/T. Station Tezpur.	... 1992.

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Attested.

Advocate

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

MEMORANDUM

The undersigned is hereby offering 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. Eelsor 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 Bidya 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 Ling.	
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. Balkona 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	

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

Attested.

Advocate

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 Prafulia Kr. Das Arun Uday Press Silpukhuri, Guwahati-3.	<u>Guwahati</u> 9125/82	Motunga site
15.	Shri Suchil Ch. Sharma Vill. Belsor 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-

D(S) - Kopili Sub-Divn., CWC, Nagaon.

17.	Shri Chitra Rajkhowa Vill. Hujkhutali P.O. Jus Rangacara 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. Nagaon 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. Booriguri Nagaon.	<u>Nagaon</u> 2966-82	Dharamtul
24.	Shri Rajen Kalita Tehiabarjoha P.O. Hoibargaon Nagaon.	<u>Nagaon</u> 1612/86/82	Gelabill Seasonal site.

Attested.

Agreement.

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


Sl. 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. Nagaon.	<u>Nagaon</u> 8941/82/80	Kheronichat	
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. Bogoriburi (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(S)-RSD, CWC, Nagaon.	

Ante ed.

Contd....P/4...

Sl. no.	Name & address of the candidate	Employment Exchange Recd. No.	Place of posting	Re-mark
<u>Manas Sub-Division, CWC, Barpeta Road.</u>				
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 Narzary 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.C. 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	
46.	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 Xx 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	

Attested.


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 Eoro 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 Niranjan Das Vill. Goral Baruapara, P.O. Bhattapara Dist. Kamrup (Assam).	<u>Guwahati</u> 611/84	M.B. Sub-Di vn., 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-	

Attes. ed.

Contd...P/6...

Advocate.

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Sl. No.	NAME & ADDRESS of the candidate	Employment Exchange Regd. No.	Posting	Remarks
65.	Shri Akhil Pathak C/O Shri D.B. Chetty, H.O. Circle, CWC, Nabin Nagar, Janapath, Guwahati-24.	Guwahati 8580/82	D.C. Court Guwahati.	
66.	Shri Karuna Kumar Baishya C/O Madhab Ch. Nath. Chandmari Coloney Guwahati-3.	Guwahati 1947/89	Goalpara	
67.	Eiren Choudhury Vill. Kandrapara P.O. Babaja (Tini Ali) Sonitpur.	Tezpur 6121/82	Seppa Site	
68.	Shri Lakshi Neog Vill. Kaliagaon P.O. Bihuguri 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 K. Das Vill. Patalar Chak P.O. Jamugurighat & Sonitpur.	Tezpur	Seppa Site	
71.	Shri Siba Charan Nath Vill. Cowan Chak P.O. Wendikes Sonitpur.	Tezpur 1579/89	Jiabharali	
84 ✓ 72.	Md. Abdul Hakim Jogighopa Ferrichat Goalpara.	Goalpara 1026/81/87	Goalpara	
86 ✓ 73.	Shri Ealen Ch. Rava Vill. Baripara P.O. Singra Dist. Kamrup.	Guwahati 2785/84	Gaitandha	
74.	Shri Rajsekhar Basumatari Vill. Chapaguri P.O. Chapaguri Dist. Sonitpur.	Tezpur 5081/91	W/T Station 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 Bhonoraguri, Sonitpur.	Tezpur 4891/85	Bhonoraguri	
77.	Shri Niranjana Kalita Vill. Bhurapara (Kaliapara) C/O Krishna Kanta Kalita Bijoy Nagar, Kamrup.	Guwahati 6741/90	-do-	
78.	Shri Ham Ram Nath Vill. Kumar Chuburi P.O. Thelamara, Dist. Sonitpur.	Tezpur 4043/80	Bana Site	

Attested.

Advocate

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

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, G/O M.N.Kumar Bapuji School Ulubari, 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. Ehattacharjee 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 Rajak C/O Md. Lalan Seikh Vill. & P.O. Jalukbari, Guwahati-14.	<u>Guwahati</u> 5592/89	Met Section	
88.	Shri Gobinda Barman C/O Eongshi 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. Barahtola (Majo)	<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 Coloney, Bamunimaidan, Guwahati-21.	<u>Guwahati</u> 7294/85	-d.o-	

Attested.

Contd... P/8...

Advocate.

work whichever is earlier without further notice.

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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. Shiv
(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.D. (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

Attes.ed.

Advocate.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUNICIPAL 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. DHAWI, VICE CHAIRMAN
HON'BLE MR B.N. DHOURDIYAL, MEMBER (A).

O. A. No. 223 of 1992

1. Vinod Kumar
S/O Shri Harman Singh
R/O F-25, Transit Camp,
Khichari Pur,
Delhi.
2. Ram Kumar
S/O Shri Ratan Singh,
RZ-139, X - Block-11,
New Roshan Pura, Najafgarh,
New Delhi.
3. Yash Pal Singh
S/O Shri Devi Singh,
HZ-288, VII. & P.O. Haraina,
New Delhi.
4. Parmod Kumar
S/O Shri Bijli Singh
No. 421, Sewa Nagar,
New Delhi.
5. Narendra Paswan,
B-50, Maharpur, 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. Luram, New Delhi.

Attested.

/s/
Advocate.

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

(through Mr Joy Singh, Advocate).

O.A.No.1601 of 1992

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

... .. Applicant.

(through B.S.Maine, Advocate).

O.A.No.2245 of 1992

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

... .. Applicant.

(through B.S.Maine, Advocate).

O.A.2418 of 1992

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

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

..... Applicants.

(through B.S.Maine, Advocate).

vs.

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

..... Respondents
 (In all three above O.As)

(through Mr Joy Singh in 1991 and 2002 and
 through Mr. P.P. Khurana in O.A.No.2418 of 1992).

Aites.ed.

Advocate.

- 75
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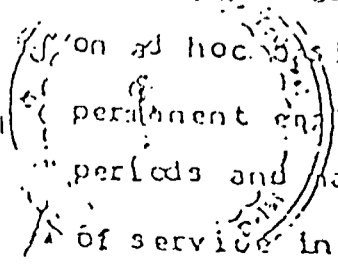
ORDER

B.N.DHOUJDIYAL, MEMBER(A)

The applicants, in all the above-mentioned O.As have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K. Muram, New Delhi. One of them, Shri Jayant Kumar Pathak, was engaged as Casual Labourer on 2.1.1987 but claims to have been working against the post of regular electrician w.e.f. 7.12.1987. The date of engagement of the applicants ranges between 1.10.1982 to 5.9.1988. In case of O.A.No.223/92, between 15.4.1986 to 26.10.1987. In case of O.A.No.884/92, between 6.1.1987 to 7.9.1990. In case of O.A.No.2418/92. Shri Rajesh Kumar Saini (applicant in O.A.No.1501/92) was engaged on 19.2.1988 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

Attested.
Advocate.



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. Para 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.

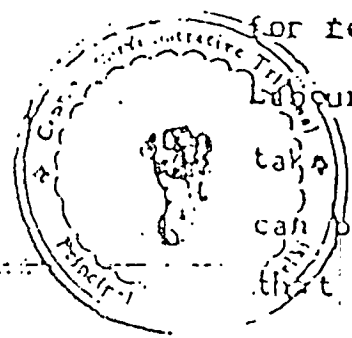
So far as the work-charged employees and casual labour are concerned, the effort must

Attended.
Advocate

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 200 days service in two consecutive years, should be given priority in accordance with their length of service;



Attested.
Advocate

-6-

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

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

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

5. There shall be no order as to costs.

(B.N.Dhondiyal)
Member(A)

(S.K.Dhaon)
Vice Chairman

RECEIVED
1974/10-11
Section III
20/10/74

Attes.ed.
Advocate

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

Faridkot House
Copernicus Marg,
New Delhi-1.

U.I. 30/5/94

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

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

Versus

2. Sh. Rajendra Sharma, Carpenter Central
Stores Divi., Central Water Commission
East Block No 1, Wing No 4, 2nd Floor,
R.K. Puram, New Delhi.
 3. Raju Kashyap S/o Sh. Nikka Ram
 4. Sh. Daya Ram S/o Sh. Ganga Ram
 5. Sh. Dali Singh S/o Sh. Bhup Singh
 6. Sh. Hiri Raj S/o Sh. Mishri Singh
 7. Sh. Bijendra S/o Sh. Tota Raj
- (Serial No. 2 To 6 working in Central Stores
Divi. Central Water Commission, R.K. Puram,
New Delhi.)

Socy. Mini. Water Resources Applicants

VS
Rajender Sharma & Ors. Respondents

RA 172/94 in
U.A. No. 2514/92

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

Attested.
Advocate.

Yours faithfully,
SECTION OFFICER(J-II)

-32-
Administrative Tribunal
New Delhi, New Delhi.

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

New Delhi this 9th Day of May, 1994.

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

RA-165/94 in CA-2246/92 RA-171/94 in CA-1001/92 &
RA-172/94 in CA-2418/92.

1. The Secretary,
Ministry of Water Resources,
Bhram 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.

Respondent Applicant - /
respondents in CA.

(through Sh. Jyot Singh)

RA-165/94 in CA-2246/92 vs: vs

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-1001/92

Shri Rajesh Kumar Saini,
S/o Shri Veer Sain Saini,
Workcharge Khillasi,
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

Alleged.
Advocate

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.

S

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 Bijandra,
S/o Sh. Tota Ram.
7. Sh. Ram Kulkarni,
S/o Sh. Hanumanth Rao.
8. Sh. Uday 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. Dhondiyal, Member (A)

These revised applications have been filed
by the respondents against the earlier judgement delivered
on 10.02.94 in O.A. Nos. 223, 824, 1601, 2246 & 2418 of
1992. The following directions were given:-

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

Attested.
Advocate.

- (iii) Adhoc/temporary employees should not be replaced by other ad hoc/temporary employees and should be retained in preference to their juniors and outsiders;
- (iv) Such a scheme shall be submitted by the respondents for scrutiny of this Tribunal within a period of three months from the date of communication of this order by the petitioner to them.

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

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

Attested.

[Signature]
Advocate

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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 files.

(S. N. CHANDRAN) MEMBER

(S. K. ...)

/vv/

Original ...
...
...
CC ...
C.A.T. P.B.
New Delhi

Attested
Advocate

Section Officer
50/796

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH AT GUWAHATI

In the matter of

O.A. No. 253 of 1996
Shri K.K. Baishya & 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 working under the Respondents on casual basis" 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:

M. Shaukat Ali 3/2/97
(MD. SHAUKAT ALI)
Sr. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

The scheme of 1993 is not applicable to the casual/ adhoc Khalasi/ 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 Min. 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. Sometimes depending upon the exigency of work of handling of Hydrological data, they were engaged during intervening period.

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 Khalasis 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 as already stated in the above paras, 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. It is pertinent to mention that the Hon'ble Tribunal in its order dt. 1.11.94 in O.A. 206/94 made specific mention that 1993 scheme is not applicable as the applicant No. 2, herein is not a casual daily rated worker (copy annexed). MA-1.

4.14 to 4.16 That with regard to statement made in para 4.14, 4.15 and 4.16 of the application, the Respondents beg to state that the interim order passed by the Hon'ble Tribunal has already been modified. The Respondents further beg to state that the scheme for grant of temporary status and regularisation of the services of seasonal Khalasis has already been drafted by C.W.C. and Ministry of Water Resources and at present is being circulated to concern Ministries and Departments for their comments/ observations within a fixed time frame and immediately thereof the cabinet approval would be sought as per transaction of business rules. It is further stated that as and when the said scheme is approved, the individual applicant's case would be considered.

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

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

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

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

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

That the Respondents submit that the application is devoid of merit 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

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI - 5

7-
ANNEX MA-1

D.A. 206/94

Sriarendra Ch. Das

Applicant

-VS-

Union of India & Ors.

Respondents

P R E S E N T

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

For the Applicant

Mr. M.K. Choudhury
Mr. B.K. Baidhya

For the Respondents

Mr. A.K. Choudhury
Addl. C.G.S.C.

D A T E

O R D E R

1.11.94

Mr M.K. Choudhury for the applicant. Heard for admission. Mr A.K. Choudhury, Addl. C.G.S.C receives copy notice for the respondents. By consent taken up for final hearing.

The applicant has been working as Work charged Khalesi since the year 1981. His appointment has been in a Work charged post and purely temporary liable to be terminated without assigning any reason. The appointment did not confer any right on the applicant to be regularised. The applicant continued to work with breaks given from time to time. He worked for 298 days in 1989, 305 days in 1990 and 338 days in 1991. He claims that by reason of his having worked totally for more than 240 days he is entitled to be conferred with temporary status and regularised. It is pointed out by the applicant that after the last order dated

contd...

1.11.94

4.5.94 the appointment of the applicant has come to an end on 15.10.94 and has not been continued. He therefore prays that respondents may be directed to regularise his service giving him the benefit of regularisation from the date of his initial appointment on Work charged basis with all consequential benefits.

Reliance is also placed upon the O.M.No.49014/4/90-Estt.(C) issued by the Ministry of Personnel, Government of India dated 8th April, 1991 and O.M.No.51016/2/90-Estt(C) also issued by the Ministry of Personnel, Government of India dated 10.9.93. The applicant's name appears to have been included in the seniority list of Seasonal Khalasis in the year 1992.

The applicant states that he filed a representation to the Executive Engineer, Central Water Commission on 7.7.94 praying for regularisation but there has been no response from the respondents.

We share the anxiety of the learned counsel for the applicant that a poor person like the applicant who was working as Khalasi and has put in considerable length of service should be deprived of his employment rendering him jobless merely because he was continued on adhoc basis although he should have been regularised much earlier on completion of 240 days as per the existing norms. That however, does not enable us to grant the



1.11.94

in view of the fact that the post of adhoc appointment has been disapproved by the Supreme Court and the law is laid down in clear terms in the ruling in J & K Public Service Commission etc. v. Dr Harinder Mohan & Ors. etc.etc. 1994(1) S.L.J page 209. The decision in the case of Dr A.K.Jain v. Union of India as well as in State of Haryana v. Piara Singh were considered alongwith several other decisions. It has been observed that adhoc employee should be replaced as expeditiously as possible by direct recruits. Assuming therefore, that the post still exists although the department where the applicant was appointed was Work charged department still no legal right can be spelt out to be regularised as a matter of course. We are however, persuaded to take the view that the case of the applicant is fit to be considered sympathetically having regard to the spirit and object behind the O.M. dated 10.9.93 (read with O.M. dated 8.4.91 referred above) which lays down the procedure for filling up of Group D posts. The scheme has been formulated in connection with grant of temporary status and regularisation of the casual employees in pursuance of a judgment of the Principal Bench of the Central Administrative Tribunal. Since the applicant appears to have become entitled to be granted temporary status it would be just and proper to treat him similarly if that could be done even though the scheme may not directly cover him because he is not a casual daily rated worker but a temporary employee.



Well

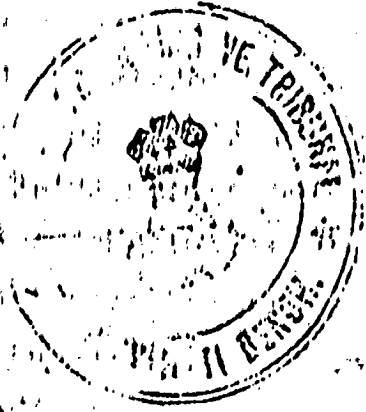
(W)

O.A. 205/94

1.11.94

In the result, the respondents are directed to consider the case of the applicant sympathetically in the light of what is stated above. We hope that since the earlier engagement of the applicant has come to an end recently the respondents will consider the matter most expeditiously on receiving the copy of this order.

With the above direction, the application is disposed of. There will be no order as to costs.



Sd/- M.G. CHAUDHARI
VICE CHAIRMAN
Sd/- G.L. SANGLYINE
MEMBER (ADMIN)

pg

Certified to be true Copy
प्रमाणित प्रतिलिपि

16/11/94
Section Officer (J)
राज्यपाल अखिलेश्वरी (न्यायिक शाखा)
Central Administrative Tribunal
राज्यपाल अखिलेश्वरी
Government Bench, Guwahati-8
गुवाहाटी ब्याचपीठ, गुवाहाटी-8
16/11/94