

30/100  
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 258/96.....

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SECTION OFFICER (Judl.)

*Galit  
30/11/98*



2

12.11.96

Pl. comply  
immediately.

12/11/96

nkm

60  
Member

M/12/96

7.1.97

1) Notice unserved  
Respondent No-7.

11.12.96

Vide order today in M.P.215/96 the  
interim order dated 12.11.96 has been  
modified.

2) Notice duly served  
Respondent No-5

~~7.1.97~~

pg

Member

10.1.97

18.12.96

written statement  
has not been filed.

Y/1  
To-1

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.

60  
Member

pg

19/1/97

Learned counsel Mr S. Sarma for  
applicant. Learned Sr. C.G.S.C. Mr S. Ali for  
respondents prays for one months time to  
written statement.

List for written statement and fur  
orders on 13.2.97.

(3) OA/TA/CP/RA/MP No. of 19 O.A.No. 258/96

OFFICE USE

DATE

ORDER

15.1.97

Learned counsel Mr S. Sarma for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents. Written statement has been submitted. Copy of the same be served on the opposite party. The case is ready for hearing.

List for hearing on 17.2.97. Rejoinder, if any, may be submitted before the date of hearing with copy to the counsel for the respondents.

62  
Member

nkm

W/1511

16.1.97

WTS filed on behalf  
of respondents.

10.3.97

Let the case be listed on 21.4.1997 for hearing.

62  
Member


Vice-Chairman

trd

W/173

17.4.97

Ready to hearing.

21.4.97

Let the case be listed for hearing on 2.6.97.

62  
Member


Vice-Chairman

pg

W/2274

Memo of appearance  
not yet filed.

16/5/97

OFFICE NOTE

DATE

ORDER

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

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

60  
MemberJ.S.  
Vice-Chairman

pg

F  
3/6

7.7.97

Heard ~~both~~ <sup>102</sup> 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  
MemberJ.S.  
Vice-Chairman

trd

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

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

Title of the case : O.A. No. 258 of 1996

Shri Pradip Kumar Roy & Others ... Applicants

- Versus -

Union of India and Others ... Respondents

I N D E X

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For use in Tribunal's Office :

Date of filing : 11-11-96 :

Registration No. : 07258/96

*D. S. Service*  
11/11/96  
REGISTRAR

Under taken to  
serve copy to Mr. S. Ali  
for ASV  
11.11.96.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

O.A. No. 258 of 1996

BETWEEN

1. Shri Pradip Kr. Roy, 11. Ajin Rongmai
2. Debasish Bhattacharjee 12. Smt. Sampa Rani Roy.
3. Maran Chandra Kar
4. Arunjit Deb
5. Bhabatosh Mazumdar
6. Manik Karmakar
7. Sunil Sarkar
8. Deipil Kr. Das
9. Sunil Ch. Das,
10. Netay Chakraborty

All the applicants are seasonal Khalasi/  
Casual Workers under the Central Water  
Commission, Meghna Division working in  
different places and their service  
particulars are reflected in Annexure-A  
to this O.A.

... Applicants

- AND -

1. The Union of India,  
represented by the Secretary to  
the Govt. of India,  
Ministry of Water Resources,  
Shram Shakti Bhavan,  
New Delhi.
2. The Chairman,  
Central Water Commission,  
R.K. Puram, New Delhi-66
3. The Chief Engineer,  
Central Water Commission,  
North Eastern Regional Office,  
Shillong.
4. The Superintending Engineer,  
Central Water Commission,  
Meghna Circle,  
145 Panchayat Road, Silchar-4.

Contd...P/2.

the Applicant  
OS. Mehta  
11-11-96

5. The Executive Engineer,  
Meghna Investigation Division,  
Central Water Commission,  
Link Road, Silchar-6.
6. Executive Engineer,  
Meghna Investigation Division,  
Central Water Commission,  
Younger Villa,  
Motinagar, Shillong-14
7. The Assistant Engineer, Meghna  
Investigation Sub-Division No. 1  
Central Water Commission,  
Agartala.
8. Assistant Engineer,  
Meghna Inv. Sub-Divn. No. 2  
Central Water Commission,  
Dharmanagar, Tripura
9. The Assistant Engineer,  
Meghna Inv. Sub-Divn. No. 3,  
Central Water Commission,  
Silchar.

... Respondents

DETAILS OF APPLICATION

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

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

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 instant application is filed within the limitation period prescribed under Section 19 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 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 but 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 contentions.

4.4 That the applicants state that as is reflected in Annexure 'A' statement annexed in this O.A. they have been working under the respondents since 1988, 1989, 1988, 1987, 1988, 1992, 1987, ~~1990~~, 1990, 1992, 1988 respectively. They were so appointed in Gr-D employment 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.760/- 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 thereafter, they are not longer engaged for the rest of the period in the year. Again, in the next ~~xx~~ year, they are 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.

4.6 Their such appointments are not in dispute and thus instead of annexing all the appointments letters pertaining to their services, the applicants beg to annex the last one of ~~such as~~ their such appointment letters and the same is annexed here to as ANNEXURE B.

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 bona fide 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 services 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 a

the next year they are appointed for another period, this process has been going on since the days of their respective employments. Further, some time during the intervening period they are also given casual employment like that of any other Gr. 'D' employee. Thus the case of the applicants stand that 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 ~~as casual~~ ex. 'D' every year for a particular period as work charged seasonal 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 the instant O.A.

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 as in the instant case were raised. The Principal Bench of the Hon'ble Tribunal by its common judgment dated 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) 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 of the fact that even if a particular scheme is completed, new scheme are launched every year and assessment of regular post that can be created on the basis should be made for regularisation all those who have completed 240 days service in two consecutive years, should be 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 personal 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) ~~XXXX~~ Such a scheme shall be submitted by respondents for scrutiny of this Hon'ble Tribunal within a period of 3 months from the date of communication of this order by the petitioner to them .

\*There shall be no order as to costs."

A copy of the said Judgment is annexed hereto and marked as ANNEXURE-C.

Con td...P/8.

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 same judgment dated 9.5.94 is annexed here to as ANNEXURE D.

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 therein have been continuing in their services without any interruption and break and they are enjoying the consequence of granting the temporary status. One of the applicants is transferred to Shillong and he has been continuing as Gr. 'D' employee on conferment of temporary status with all consequential benefits. After the aforesaid judgment, there has been no occasion to terminate the services of the applicants therein and they are enjoying the benefit of temporary status as per the scheme holding the field. The Central Water Commission has formulated and adopted the scheme as was formulated by the Govt. of India, Ministry of Personnel & Public Grievances with a slight modification here and there, more particularly as regard to the number of working days, the respondents may 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 envisages under the

\*Contd.....P/9\*

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 the 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 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 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 again. Further it is stated that by the applicants 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 some of the similarly situated persons belonging to Middle Brahmaputra Division and other divisions have already approached this

Hon'ble Tribunal and this Hon'ble Tribunal by its various orders has protected their services.

One of such copies of orders dated 15.10.96 is annexed hereto as ANNEXURE E.

4.14 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 fit case for an interim order directing the respondents not to terminate the services of the applicants till disposal of this instant O.A. It is further stated that by the applicants that the respondents have 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 applicants 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. R'D' posts.

4.15 That the applicants state that many of the similarly situated persons like that of the applicants belonging to the same category of employment under the same department have approached this Hon'ble Tribunal and the Hon'ble Tribunal have granted them appropriate relief by way of interim order towards continuance of their services. The present applicants being similarly situated like that of the other applicants in the above cases are also entitled to an interim order towards their continuation. Due to the circumstances beyond

their control they could not approach this Hon'ble Tribunal on/or before 31.10.96 i.e. upto which date their services were continued. All the applicants belong to lower stratum of the society and they were from very poor families. Their legal knowledge is also limited. At the time of their last posting, they were posted at very remote areas under the respondents and they were not in a position to leave the services before 31.10.96 to seek any legal advice. The Hon'ble Tribunal is not in their easy approach on account of many factors like lack of any legal knowledge, poverty being posted at remote areas and also in view of the fact that they belong to the lower stratum of the society. However, the applicants having come to know that persons similarly situated like them have been granted appropriate relief by this Hon'ble Tribunal towards continuation of their services, have come down to Guwahati at the earliest opportunity for the purpose of filing, the instant application. Now the instant application has been filed at the earliest opportunity. There is no laches and/or negligence on the part of the applicants to approach this Hon'ble Tribunal and the circumstances were beyond their control to come under the protective hands of this Hon'ble Tribunal on or before 31.10.96. Further in between, the Hon'ble Tribunal was also not in session on account of on-going holidays. However, it is the bonafide belief and reasonable expectation of the applicants that because of this 8/9 days delays of approaching this Hon'ble Tribunal after 31.10.96 will not be an impediment for the Hon'ble Tribunal to grant appropriate relief to the applicants. Under similar circumstances, the Hon'ble Tribunal has been pleased to grant

appropriate relief to the applicants in O.A. No. 253/96 (K.K. Baishya & Ors. Vs. Union of India & Ors.). In that case also the applicants have approached this Hon'ble Tribunal after the expiry of their period of appointment. However, the Hon'ble Tribunal has granted them appropriate relief by way of an interim order dated 31.10.96 and on the strength of that they have been re-engaged in their services and now they are continuing in their services. Thus it is a fit case to grant same interim order to the present applicants.

5. GROUNDS 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 consequential benefits.

5.3 For that there being a judgment holding the ~~fixed~~ field 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 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 services could not be utilised in exploitative terms as has been done by the respondents in the instant case.

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

5.6 For that the applicants have been treated differently and thus it is violative of Articles 14 and 16 of the Constitution of India.

5.7 For that the applicants have been continuing under the respondents for the last several years and in the process they have lost their chances of employment elsewhere as 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 in exploitative terms in violation of provisions of constitutional ~~mandate~~ mandate and the laws framed thereunder.

6. DETAILS OF REMEDIES EXHAUSTED :

The applicants declare that they have no other alternative and efficacious remedy except by way of approaching this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OF THEM :

That the applicants further declare that they have not previously filed any application writ petition or suit regarding the subject matter in respect of which the instant application has been made before any Court of law, or any

other authority and/or other Bench of this Hon'ble Tribunal and/or any such application, writ petition or suit is pending before any of them.

8. RELIEFS 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 reliefs :

- 8.1 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.
- 8.2 To direct the respondents to extend the benefits of Annexure-C judgment 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 services 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
- 8.5 Any other relief or reliefs to which the Hon'ble Tribunal may deem fit and proper.

Contd....: P/15.

9. INTERIM ORDER PRAYED FOR :

Under the facts and circumstances stated above, the applicants pray for an interim order ~~that~~ during the pendency of the O.A. directing respondents to allow the applicants to continue in their services as before without any interruption. Such an interim order has already been passed in the case of O.A. No. 253/96 (K.K. Baishya & Ors. Vs. U.O.I. & Ors.) vide order dated 31.10.96.

10. .....

The instant application is filed through Advocate.

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

- (i) I.P.O. No. : 09 349166
- (ii) Date : 4. 11.96
- (iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

Verification.....

VERIFICATION

I, Shri Pradip Kumar Roy, son of Late DMirendra Kumar Roy, aged about 29 years, resident of Belonia, South Tripura, P.S. Bankar, Tripura(South) District, Tripura, 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 facts. I am also duly authorised ~~and~~ to sign this verification on behalf of the other applicants.

And I sign this verification on this the 11<sup>th</sup> day of November 1996 at Guwahati.

pradip Kr. Roy,  
(PRADIP KR. ROY)

ANNEXURE AService Particulars of the applicants

Sl.No.	Name	Age (Year)	Last place of posting	No. of days worked	working since
1.	Pradip Kumar Roy	29	Sub-Divn No. I at Belonia site.	48 170 170 170 170 170 196 170 148	29.8.88 15.5.89 15.5.90 15.5.91 15.5.92 15.5.93 4.4.94 15.5.95 5.6.96
2.	Debasish Bhattacharjee	28	Sub-Division No. 1 at Howrah site	89 170 170 170 170 170 170 170 147	1.8.89 15.5.90 15.5.91 15.5.92 15.5.93 15.5.94 15.5.95 7.6.96
3.	Maran Ch. Kar	32	Sub-Division No. 1 at Belonia site	65 155 155 170 170 170 170 170 148	27.8.88 15.5.89 15.5.90 15.5.91 15.5.92 15.5.93 15.5.94 15.5.95 5.6.96
4.	Upendras Ch. Deb	42	Sub-Division No. 3 at Maniar Khal site	69 128 170 170 170 170 170 155 170 147	23.8.87 25.6.88 15.5.89 15.5.92 15.5.93 15.5.94 15.5.95 10.6.90 15.5.90 10.6.96
5.	Bhabatosh Mazumdar	30	Sub-Division No. 1 at Sona- mura site	49 153 153 170 170 170 170 170 146	28.8.88 15.5.89 15.5.90 15.5.91 15.5.92 15.5.93 15.5.94 15.5.95 7.6.96

Contd.... P/2.

**Attested.**

Advocate

6. Manik Karmakar	238	Sub-Division No. 1 at Sona- mura site.	123	10.6.92
			170	15.5.93
			170	15.5.94
			170	15.5.95
			143	10.6.96
7. Sunil Ch. Sarkar	31	Sub-Division No. 3 at Burial Site Mizoram	73	3.8.87
			150	18.5.88
			<del>150</del>	<del>15.5.89</del>
			170	15.5.89
			<del>170</del>	<del>15.5.89</del>
			137	1.6.90
			170	15.5.91
			170	15.5.92
			170	15.5.93
			170	15.5.94
			170	15.5.95
			123	1.7.96
8. Dilip Kr. Das	29	Sub-Division No. 2 at Kumarghat site	103	20.7.90
			170	15.5.91
			170	15.5.92
			170	15.5.93
			170	15.5.94
			170	15.5.95
			162	8.5.96
9. Sunil Ch. Das	28	Sub-Division No. 1 at Khowi site	157	28.5.92
			170	15.5.93
			170	15.5.94
			170	15.5.95
			148	5.6.96
10. Nitay Kax Chakraborty	31	Sub-Division No. 3 at Maniarkhal site.	97	27.8.88
			170	15.5.89
			170	15.5.90
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			170	15.5.92
			170	15.5.93
			170	15.5.94
			170	15.5.95
			145	8.6.96
11. Ajin Rongmai	32	Meghna Jorhat Sub-Divn. Sallingh. -	170	15.5.91
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			170	15.5.95
			170	15.5.96
			170	15.5.97
			170	15.5.98
			170	15.5.99
			170	15.5.90
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			170	15.5.92
			170	15.5.93
			170	15.5.94
			170	15.5.95
			150	15.5.96
12. Smt. Sampa R. Roy	25	do		

Attest. ad.  
B. M. J. 196  
Advocate

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 MEGHNA DIVISION  
 • LINK ROAD, SILCHAR

No. MD/SIL/Seasonal-96/Camp SHB/02/4A

Dated Silchar, the 28/5/96

## OFFICE ORDER

The following individuals are hereby appointed on purely temporary basis as seasonal Khalasis on a basic pay of Rs.750/- per month plus other allowances as admissible with effect from the dates of their actual joining at the sites mentioned against each.

The appointment will terminate on 31/10/96 AN. Their services may be terminated earlier to 31/10/96 also without assigning any reason thereto. This appointment will not carry any right for permanent employment. In case he/she is willing to accept this order, he/she should send his/her willingness within 15(fifteen) days from the date of issue of this order to the office of the undersigned. They should report for duty immediately within 20 days. If he/she fails to join within the stipulated period, the offer of appointment will be automatically treated as cancelled without further intimation and his/her name will be struck from the existing and future seniority lists of Seasonal Khalasis. No correspondence will be entertained.

Other terms and conditions of service will be governed by relevant rules/orders enforced from time to time.

No TA/DA is allowed for joining the place of postings.

The appointee should before joining the post produce a Certificate of Medical Fitness from the concerned Civil Surgeon/District Medical & health Officer.

Sl. No.	Name of Seasonal Khalasi	Place of posting	Under which Sub-Division
01	Sri Ajit Sarkar	Hadra site	Meghna Sub-Division No. I, CNC, Agartala
02	Sri Debasis Bhattacharjee	-do-	-do-
03	Sri Sankar Dhar	Gajaria site	-do-
04	Sri Montosh DebNath	-do-	-do-
05	Sri Manik Karmakar	Sonamura site	-do-
06	Sri Bhabotosh Mazumdar	-do-	-do-
07	Sri Pradip Roy	Belonia site	-do-
08	Sri Maran Kar	-do-	-do-
09	Sri Bunit Chandra Das	Hiloria site	-do-
10	Sri Babul Sen	-do-	-do-

A/c S. Ed.

B/11/96  
Advocate.

contd... 2/

11 Sri Bimantra Bhattacharjee Nutanbazar site Meghna  
No. 32, Dharmnagar  
nagar

12	Sri Achujut Bhattacharjee	-do-	
13	Sri Nikhil Baidya	Kailashahar site	
14	Sri Jadish Malakar	-do-	
15	Sri Pradip Nath	Kamalpur site	-do-
16	Sri Subash Dutta	-do-	-do-
17	Sri Dilip Das	Kumarghat site	-do-
18	Sri Nepal Malakar	-do-	-do-
19	Sri Ajoy Kumar Das	Tulargram site	Meghna Sub-Division No. III, CWC, Silchar
20	Sri Dipak Dey	-do-	-do-
21	Sri Ramendra Kumar Nath	Anipur site	-do-
22	Sri Uttam DebNath	-do-	-do-
23	Sri Loknath Sen	Sairang site	-do-
24	Sri Satyendra Ch. Das	-do-	-do-
25	Sri Ziauddin Mazumdar	Turiati site	-do-
26	Sri Sunil Sarkar	-do-	-do-
27	Sri Kumud Behari Das	-do-	-do-
28	Sri Arunjit Deb	Monierkhal site	-do-
29	Sri Netai Chakraborty	-do-	-do-

( P.M. SCOTT )  
EXECUTIVE ENGINEER

1. The Assistant Engineer, Meghna Sub - Division No. I/II/III, Central Water Commission, Agartala/Dharmnagar/Silchar for information and necessary action. The joining report of the Seasonal Khalasis may be sent to this office in due course.

2. The Site In-charge for information and necessary action.

3. The Accounts Branch, Meghna Division, Central Water Commission, Silchar for information and necessary action.

4. Person concerned.

Sh. Sunil Ch. Das.

( P.M. SCOTT )  
EXECUTIVE ENGINEER

GOVERNMENT OF INDIA  
 CENTRAL WATER COMMISSION  
 MEGHNA INVESTIGATION DIVISION  
 "YINGYAR VILLA" LUMPYNGNGAD  
 SHILLONG- 793014

No. MID/W-17011/30/95/VOL-IX/96/1925-49 Dated Shillong the 25-5-96

OFFICE ORDER

The following individuals are hereby appointed on purely temporary basis as seasonal Khalasis on a basic pay of Rs.750/- per month plus other allowances as admissible with effect from the dates of their actual joining at the sites mentioned against each.

The appointment will terminate on 31/10/96 A.D. Their services may be terminated earlier to 31/10/96 also without assigning any reason thereof. His appointment will not carry any right for permanent employment. In case he/she is willing to accept this order, he/she should send his/her willingness within 15(fifteen) days from the date of issue of this order to the office of the undersigned. They should report for duty immediately within 20 days. If he/she fails to join within the stipulated period, the offer of appointment will be automatically treated as cancelled without further remuneration and his/her name will be struck from the existing and future priority lists of Seasonal Khalasis. No correspondence will be entertained.

Other terms and conditions of service will be governed by relevant rules/orders enforced from time to time.

No TA/DA is allowed for joining the place of postings.

The appointee should before joining the post produce a Certificate of Medical Fitness from the concerned Civil Surgeon/District Medical and Health Officer.

No.	Name of Seasonal Khalasi	Place of posting	Under which Sub-Division
1	Sri G.C.Marak	Sibbari site	Meghna Investigation Sub-Division-II Shillong.
2	Sri Sankar Sharma	-do-	-do-
3	Sri Jagdish Roy	Dimapara site	-do-
4	Sri Bimal Roy	Theeriaghat site	-do-
5	Sri Sailindar Roy	-do-	-do-
6	Sri Jaikushan Singh	Kharkharia site	-do-
7	Sri S.H.Choudhury	Badarpurghat site	Meghna Investigation Sub-Division-II Silchar
	Sri B.A.Barlaikam	-do-	-do-
	Sri Sampa Rani Roy	Fulertal site	-do-
	Sri Nikhil Chandra Roy	-do-	-do-

contd...2

Attested  
 Adarsh  
 25.5.96.

11 Sri Bijoy Kumar Singha Jhakrador site Meghna Investigation Sub-Division Silchar

12 ✓ Deba Chandra Singha -do- -do-

13 ✓ Sri Ajin Rongmai Makru site -do-

14 Sri Martu Chandra Das -do- -do-

15 ✓ Sri Bahul Singh Chetri A.P.Bhat site Meghna Investigation Sub-Division-II Silchar

16 ✓ Sri Sudip Chakraborty -do- -do-

17 ✓ Sri Birendra Kumar Singha Dholai site -do-

✓ 18 ✓ Sri Pulak Roy -do- -do-

19 ✓ Sri Sudhir Chandra Das Matijuri site -do-

20 ✓ Sri Sambhu Roy -do- -do-

21 ✓ Sri Narul Amin Barbhuiya Fakira Bazar site -do-

( P.M.SCOTT )  
EXECUTIVE ENGINEER

Copy to :

1. The Assistant Engineer, Meghna Investigation Sub-Division-I/II/III, Central Water Commission, Shillong/Silchar for information and necessary action. The joining report of the Seasonal Khalasis may be sent to this office in due course.

2. The Executive In-charge for information and necessary action.

3. The Accounts Branch, Meghna Investigation Division, Central Water Commission, Shillong for information and necessary action.

4. Person concerned.

( P.M.SCOTT )  
EXECUTIVE ENGINEER

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

O.A. No. 223, 884, 160, 22-16, R. 2410 of 1992

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

HON'BLE MR JUSTICE S.K.DHAGI, VICE CHAIRMAN  
HON'BLE MR B.N.DHONIYAL, MEMBER(A).

O.A.No.223 of 1992

1. Vinod Kumar  
S/O Shri Ilman 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 Siri Devi Singh,  
HZ-288, Vill. & P.O. Naraina,  
New Delhi.
4. Parmod Kumar  
S/O Shri Bijli Singh  
No. 421, Seva Nagar,  
New Delhi.
5. Narendra Paswan,  
B-50, Naharpur, Sector 7,  
Rohini, Delhi.

(through S.N. Shakla, Advocate). Applicants.

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 Siri Om Parkash  
R/O Village Sidipur Lora  
P.O. Bahadur Garh,  
District Rohtak(Haryana).
3. Nand Kumar  
S/O Siri Vishal Chand  
R/O S 27/B-303, Railway Colony,  
Gughlakabad,  
New Delhi.

(through S.N. Shakla, Advocate). Applicants.

vs.

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

Ans. Ad.  
11/11/1992  
LAW

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

(through Mr. Joy Singh, Advocate).

Q.A. No. 1601 of 1992

Siri Rajesh Kumar Saini  
 s/o Siri Veer Sain Saini  
 Workcharged Khalasi  
 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. Mainee, Advocate).

Q.A. No. 2245 of 1992

Shri Jayant Kumar Pathak,  
 S/O Siri 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. Mainee, Advocate).

Q.A. 2418 of 1992

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

2. Siri Raju Kashyap, S/O  
 Siri Nikka Ram;

3. Siri Daya Ram S/O Ganga Ram.

4. Siri Dali Singh S/O Bhup Singh.

5. Siri Girish Raj S/O Mishri Singh

6. Siri Bijendra S/O Totu Ram.

7. Siri Ram Kumar Rai S/O Harddev Rai.  
 8. Siri Ujai Kumar S/O Sh. Kurukul.

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

..... Applicants

(through B.S. Mainee, Advocate).

vs.

1. The Secretary, Ministry of Water Resources  
 Siran Shakti Bhawan, New Delhi.

2. The Chairman, Central Water Commission  
 Seva 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.A.s)

through Mr. Joy Singh in Q.A. No. 1601 and 2245 of 1992  
 through Mr. P.P. Khurana in Q.A. No. 2418 of 1992).

Ans. 2d.

11/96

Advocate

13  
1-3-1ORDERB.N.DHONDIYAL, MEMBER(A)

The applicants, in all the above-mentioned O.A.s have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians under the Executive Engineer, Central Water Commission, R.K.Duram, 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 1.10.1992 to 5.9.1990. 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 19.2.1993 and Shri Jayant Kumar Pathak (applicant in O.A.No.2246/92) was engaged on 2.1.1987. In some of the O.A.s, 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

Alles O.P.

N/1/196  
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 Kunwar 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.

Sir 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. Bakra 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

29 - 281 -  
- 21 -  
- 5 -  
33

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;

Alleged.  
Mitali  
Advocate

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-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.

( U.N.Dhondiyal )  
Member(A)

( S.K.Dhaon )  
Vice Chairman

Copy to:  
FBI/PLI  
Section Officer  
Section Officer  
Section Officer  
Section Officer

Abdul Karim  
Muhib  
Abdul Karim

29 27 ANNEXURE D  
38

25  
CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

10  
The Registrar  
Central Administrative Tribunal,  
Principal Bench,  
New Delhi.

Faridkot House  
Copernicus Marg,  
New Delhi-1.

D.L. 30/5/94

11  
1. Sh. Jag Singh  
counsel for the applicant in RA  
1108, Prakash Deep, 7, Volestat Marg,  
New Delhi.

versus

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

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

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

5. Sh. Miri Raj S/o Sh. Miri Singh

6. Sh. Bijendra S/o Sh. Tata Ray

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

12  
Sacy. Min. Water Resources  
Applicants

13  
Rajendra Sharma & Ors.

RA 172/94 in  
D.A. No. 2410/92

Respondents

14  
I am directed to forward herewith a copy of Judgment/Order dt.  
15/94 passed by this Tribunal in the above mentioned case  
information and necessary action, if any.

16  
Advoca<sup>to</sup>  
Advocate.

17  
Yours faithfully,

18  
SECTION OFFICER (J-II)

27 2 28 28  
28

ADMINISTRATIVE TRIBUNAL  
1. Hough, New Delhi.

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

New Delhi the 28<sup>th</sup> Day of May, 1994.

Hon'ble Mr. Justice S.K. Dhon, Vice-Chairman (J)  
Hon'ble Mr. B.N. Bhoundiyal, Member (A)

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

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

2. The Chairman,  
Central Water Commission,  
Susa Bhawan, R.K. Puram,  
New Delhi.

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

Review Applicant /  
Respondent in RA.

(through Sn. Jag Singh)

RA-165/94 in RA-2246/92 VO: 5.1.8

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

Respondent in RA/  
Applicant in OA.

RA-171/94 in RA-1001/92

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

Respondent in RA/  
Applicant in OA

RA-172/94 in RA-2418/92

1. Shri Vinod Kumar Sharma,  
S/o S. K. Sharma,  
Clerk, Central Stores Divn.,  
Central Water Commission,  
West Block No.1, Wing No.4,  
2nd Floor, R.K. Puram,  
New Delhi.

22/5/96

2/

2. Sh. Raju Kashyap,  
S/o Shri Nikka Ram.
3. Sh. Darya Ram,  
S/o Sh. Sanga 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. Tote Ram.
7. Sh. Ram Kumar  
S/o Sh. Haryan Ram.
8. Sh. Uday Kumar,  
S/o Shri Kurukul.

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

Respondents in RA/  
Applicants in OA.

Order (by CIRCUMSTANCES)  
delivered by Hon'ble Mr. B.N. Dhoonillyal, Member (A)

These review applications have been filed  
by the respondents against the common judgment passed  
on 10.02.94 in C.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  
post, 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 accord-  
ance 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;

- 2 -

- (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 U/C staff under different categories from both Central Stores 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 U/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 Doptt. of Personnel regarding temporary status being given to casual workers who have worked for 127 days. Certainly, it cannot be accepted that the applicants will not implement their own orders. The direction No. 3 is based on a well

(7)

established principles.

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

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

(S.N. DUCHEVIL)  
MEMBER (S)

(S.K. DUCHEVIL)  
VICE-CHIEF

/v/v/

Chirikov, Raus, Z.  
Bogolyubov, S. G. (signature).

Arshinov, G. N.

Ushat

CC, G.

GAT, P.B.

N.M. Driv

Chirikov  
Raus

Section Officer  
Date 30/17/96

11/196

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH: GUWAHATI, S

O.A.NO.224/96

Sri P.C.Sharma &amp;ors . Applicants.

vrs.

U.O.I.&amp;ors. Resdpt.

P R E S E N T

THE HON'BLE SRI G.L.SANGLYINE, MEMBER(ADMN)

For the Applicants, Mr. B.K.Sharma, Mr. S.Sarma.

For the Respondents, Mr. S.Ali, Sr.C.G.S.C.

DATE

14.10.96

ORDER

Learned counsel Mr. B.K.Sharma for the applicants. Mr. A.K.Chaudhari, Learned Addl.C.G.S.C. for the respondents.

Heard Mr. Sharma for admission. Prayer to allow the applicants to join together in this single application is granted in terms of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987, as the conditions mentioned therein are fulfilled.

Perused the contents of the application and the reliefs sought. The application is admitted. Issue notice on the respondents by registered post.

List for written statement and further orders on 26.11.96.

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

SD/MEMBER

Memo No:- 3570

Dt. 15/10/96

Copy for information and necessary action to:-

- 1) The Secretary, Govt. of India, Ministry of Water Resources, Shram Shakti Bhawan, New Delhi.
- 2) The Chairman, Central Water Commission, R.K.Puram, Seva Bhawan, New Delhi.
- 3) The Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Guwahati-7, Rajgarh Road.
- 4) The Executive Engineer, Central Water Commission, M.O.T. Sub-Division, Bamunimaidan, Guwahati-21.
- 5) Sri P.C. Sharma, Applicant by hand.
- 6) Mr. A.K.Chaudhari, Addl.C.G.S.C.

*M. Scaria*  
15/10/96  
SECTION OFFICER (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GAUHATI BENCH AT GUHATI

33

In the matter of  
O.A. No.258 of 1996

Sh. P.K. Roy and Ors.---- Applicants

vs

Union of India and Ors.-- Respondents

Written statement on behalf of  
Respondents

The humble Respondents submit their  
written statements as follows:-

Para-I That averments made in para-I are not admitted, as stated. It is respectfully submitted that the applicants/petitioners were engaged as Seasonal Khalasis for a limited period i.e. from 15th May to 31st October with certain terms and conditions. A copy of each appointment orders is filled herewith <sup>See</sup> and is marked as Annexure-I. The petitioners had accepted their offers containing the terms and conditions in the appointment orders. Accordingly they joined their duties as Seasonal Khalasis for the aforesaid period. Their services cannot be regularised as there is no vacant post/posts of W/C Khalasis lying in the Meghna Circle. Moreover, the applicants/petitioners were engaged as Seasonal Khalasis exclusively for a limited period and their services stand terminated on the date upto which they were engaged and they cannot be continued as there is no work against which they could be engaged.

Para-2 Para 2 requires no reply.

Para-3 Contents of para 3 are not denied.

Para-4.1 & 4.2 Contents of para 4.1 and 4.2 require no reply. However it is denied that the applicants are holder of Group 'D' post, as alleged.

Para-4.3 That the averments made in para 4.3 are not admitted, as stated. It is submitted that the applicants/petitioners were appointed each time for a limited period only, with certain terms and conditions and after expiry of the period of appointment orders, the petitioners can not claim for their regularisation of their services. The last offer of the petitioners for the post of Seasonal Khalasis issued by the Respondent vide order No. MD/SIL/Seasonal-96/Camp-SHG/02-48 dated 28-05-96 as narrated above at Annexure-I. Thus the engagement of the applicants stands expired on 31-10-96. Hence the claims of the applicants/petitioners that they are entitle to temporary status is absolutely baseless. It is respectfully submitted that it is settled

13/1697  
Central Govt. Standing Order  
Central Administrative Tribunal  
Gauhati Bench, Gauhati

law laid down by the Hon'ble Supreme Court in the State of H.P. v/s Suresh Kumar Verma that where the engagement of person has been terminated for want of work, the Courts/Tribunals cannot direct their re-engagement against any other work or against existing vacancies. It is stated that 1993 scheme is not applicable in the facts and circumstances of the present case.

Para 4.4 That the averments made in para 4.4 are not admitted. It is respectfully stated that the petitioners were given temporary offer of Seasonal Khalasis, as alleged. It has also been mentioned in their appointment order that their services can be terminated without assigning any reasons thereof. This temporary appointment will not carry any right for permanent employment. It is stated that the applicants were engaged on purely for Seasonal work for collecting Hydrological Data such as Rainfall measurement, Gauge and Discharge measurements during flood/monsoon that is from 15th May to 31st Oct. of each year. The flood season in monsoon season continues within 15th May to 31st Oct. in every year. Thereafter off seasons begin from 1st of Nov. to 14th May of each year and there is no work for the Seasonal Khalasis during the off season. It is stated that the applicants have never been appointed to Group 'D' posts. It is further submitted that 1993 is not applicable in the facts and circumstances of the present case.

Para 4.5 That the averments made in para 4.5 are wrong and denied. It is respectfully stated that the petitioners are not holding any post continuously from the year 1987 in the Respondents department. The petitioners were given temporary appointment each time for the limited period as is evident from the appointment orders already submitted as per annexure-I. It is also stated that the petitioners did not work beyond the prescribed period as Seasonal Khalasi. As such the petitioners cannot claim as a matter of their right for regularisation of their services in the respondents department. It is also denied that during the intervening period they were given casual employment, as alleged.

Para 4.6 That the averments made in para 4.6 are wrong and denied. It is stated that the petitioners were given temporary appointment each time for a limited period i.e. from 15th May to 31st Oct. of each year during flood season only.

As such the petitioners cannot claim as a matter of their right for regularisation of their services. It is also stated that the petitioners did not work beyond the prescribed period Seasonal Khalasis nor on casual basis. It is also stated that at present ~~now~~ there is no work and also there is no scheme where these applicants could be engaged.

Para 4.7 That the averments made in para 4.7 are wrong and denied. It is submitted that there is no work and also there is no work and also there is no scheme where these applicants/petitioners could be engaged. Their cases for regularisation shall only be considered as and when vacancies in Workcharged Establishment arise. There is no post of Khalasis lying vacant in the respondents department, as stated above. It is respectfully submitted that the judgement of this Hon'ble Tribunal, Principal Bench, as referred; is not applicable in the facts and circumstances of the present case. It is further stated that 1993 scheme is not applicable.

Para 4.8 Para 4.8 requires no reply.

Para 4.9 That the averments made in para 4.9 are wrong and denied. It is submitted that no applicant has been transferred to Shillong who has been continuing as Group 'D' employee with temporary status with all benefits, as alleged. It is also stated that each time the offer of appointment in the Respondent department given to the petitioners by the competent authority from time to time and simultaneously accepted by them. Thus the claim of the petitioners for regularisation in services on the post of Khalasis in the Respondent department is absolutely false & baseless. The petitioners are eligible for regularisation only if a regular post of Workcharged Khalasi available under the Meghna Circle and as such their services cannot be regularised. Hence there is no question of regularisation of the petitioners. It is respectfully submitted that the judgement referred to herein pertains to those who have been working as Khalasis, Carpenters, Mistries, Motor Mechanics, Drivers and Electricians on ad-hoc and not to the Seasonal Khalasis engaged in Workcharged Estt. who works for a limited period of a specific work and as such the said judgement is distinguishable.

Para 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. upto 31st October every year for the purpose of flood forecasting/hourly gauge observation. After 31st October there is absolutely no work of flood forecasting. All the applicants are well aware of this fact that after 31st 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 no correct. All the applicants are free to choose any other job suitable to them.

Para 4.11 That with regards to statements made in paragraphs 4.11 of the applications, the Respondents beg to state that the judgement referred in the paragraph was specifically meant for the employees who have been working as Khalasis, Carpenters, Mistries, Motor Mechanic, Drivers and Electricians on adhoc basis not to the Seasonal Khalasis engaged on Workcharged Estt. for a specific purposes and for specific period. As such the said judgement is not applicable in the facts and circumstances of the present case.

Para 4.12 Contents of para 4.12 are wrong and 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 Tribunals Order, as alleged. It is stated that the respondents have the highest regard for the majority of the Hon'ble Tribunals.

Para 4.13 & 4.14 That with regards to statement made para 4.13 & 4.14 of the application, the Respondents beg to state that interim order passed by the Hon'ble Tribunals has already been modified. The Respondents further beg to state that the scheme for grant of temporary status and regularisation of services of Seasonal Khalasis has already been drafted by C.W.C. and Ministry of Water Resources. It is stated that at present the scheme is being circulated to the concerned 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. The entire process of decision making is likely to be completed in about four months time.

Para 4.15 In reply to para 4.15 it is submitted that the interim orders granted by this Hon'ble Tribunal is all similar cases have been modified and recalled.

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Para 5.1 to 5.8 Contents from para 5.1 to 5.8 are wrong and denied. It is respectfully submitted that the petitioners employed as Seasonal Khalasis for a limited period with certain terms and conditions. It is stated that the nature of work of the said post is required only for a particular season and shall be terminated as and when the requirement is over as there is no vacant post of regular Khalasi. Moreover, the petitioners have already accepted the terms and conditions put forth in their appointment orders. As such the petitioners cannot be regularised. It is further stated the petitioners have not been engaged against the regular nature of work, on the contrary, the petitioners were engaged against a temporary nature of work which shall be expired as and when the season in question is completed. It is further submitted that no benefit of the scheme of regularisation with temporary status have been extended to other similar situated employees. As stated above that there is no post of regular Khalasi in the Meghna Circle. So the question of regularisation of the services of the petitioners does not arise. Their cases for regularisation shall only be considered as and when vacancy arises and as per the seniority list maintained in the Meghna Circle. It is denied that the 1993 scheme is applicable to the applicants. It is further denied that the judgement, as cited, is applicable in the facts and circumstances of the present case. The allegations of violation of articles 14 & 16 of the constitution of India are also denied.

Para-6 Para 6 requires no reply.

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

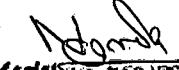
Para-8 In view of the facts and circumstances stated herein above, the applicants are not entitled to any of the relief sought for, and, as such application is liable to be dismissed.

Para-9 Para 9 requires no reply.

Para-10 Para 10 to 12 requires no reply.  
to 12

#### Verification

I, N.C. Nanda, Assistant Engineer, Meghna Investigation Division, C.W.C. Motinagar, Shillong and Respondent No.5 & 6 do hereby solemnly declare that the statement made above are true and I sign this verification on this 13<sup>th</sup> day of January 1997.

  
Assistant Engineer  
Meghna Inv. Division  
CeDECLARANT 107  
Shillong-14.