

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

M.P-194/2000 order sheet pg-1 to 3 INDEX

allowed date-23/10/2000

O.A/T.A No... 2.99/96.....

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

E.P/M.A No... 194/2000.....

1. Orders Sheet O.A-2.99/96..... Pg..... 1 to..... 4
2. Judgment/Order dtd. 13/8/97 Pg..... 1 to..... 4 allowed
3. Judgment & Order dtd..... Received from H.C/Supreme Court
4. O.A..... 2.99/96..... Pg..... 1 to..... 30
5. E.P/M.P..... 194/2000..... Pg..... 1 to..... 11
6. R.A/C.P..... NIL..... Pg..... to.....
7. W.S..... Pg..... 1 to..... 15
8. Rejoinder..... Pg..... 1 to..... 8
9. Reply..... NIL..... Pg..... to.....
10. Any other Papers..... NIL..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

CA No. 299126

A.I. Telecom. Employees. Union, G. D. Applicant(s)
- Versus -

Union of India Respondent(s)

Mr. B.K. Sharma, D.S. Bhattacharya, B. Mehta, S. Sarma, Advocates for Applicant(s).

Mr. A.K. Choudhury, C.G.S.C. Advocates for Respondent(s)

Office Notes Date Courts' Orders

This application is in
form and within time
C. P. of Rs. 50/-
Admitted with

HC No 444578
Dated 31.12.96

B. Sharma
By Registrar 1.1.97
AKR

7.1.97

Learned counsel Mr. B.K. Sharma for
the applicant. Learned Addl. C.G.S.C. Mr.
A.K. Choudhury for the respondents.

Heard Mr. Sharma for admission
Permission under Rule 4(5)(b) of the
Central Administrative (Procedure) Rules
1987 is granted as the condition
mentioned in the aforesaid rule are
fulfilled.

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

List for written statement and
further orders on 21.2.97.

Pendency of this application shall
not be a bar for the competent authority
of the respondents to dispose of the
representation dated 29.12.1995 submitted
by the applicant.

20.2.97

No written statement
has been submitted

20/2

13-3-97

- 1) Service report are still awaited.
- 2) No written statement has been submitted.

nkm

M
H

21-2-97

Mr. B.K. Sharma counsel for
the applicant is present. Written
statement has not been submitted.
List for written statement
and further order on 14-3-97.

69
Memorandum

[Signature]

(2) OA 299/96

14.3.97

Two weeks time is granted as prayed for by Mr. A.K.Choudhury, Addl. C.G.S.C. appearing on behalf of the respondents.

List on 4.4.97 for written statement and for further orders.


Vice-Chairman

trd



31-3-97

4.4.97

Mr A.K.Choudhury, learned Addl.C.G.S.C. prays for further extension of time to file written statement. On the prayer of Mr Choudhury the time is extended till 25.4.97.

List on 25.4.97 for written statement and further orders.


Vice-Chairman

Service reports are still awaited.

pg



No. W/S. is in W.W.

314

9-4-97

W/S on all Respondents are still but defective.
Now Defectives removed
in Register.

25-4-97 There is no representation.
Case is adjourned till 2-5-97.


Vice-Chairman

lm

g



1) Service Reports are still awaited.
2) W/S statement due in W.W.
3) The case is ready for hearing.

2-5-97 Mr.A.K.Choudhury learned "ddl.

C.G.S.C. informs that written statement has been filed.

List for hearing on 27-6-97.


 Vice-Chairman

lm

6-5-97

F65

Rejoinder filed
on behalf of the
applicant, at page
46 to 53.

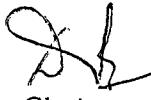
27.6.97

Mr A.K. Choudhury, learned Addl
C.G.S.C. prays for adjournment of this case as
his name has not been shown in the cause list.
Besides, he also needs some further instructions.
Mr B.K. Sharma, learned counsel for the applicant
has no objection. Accordingly this case is adjourned
till 1.8.97 for hearing.

w/s. ad rejoinder
is in view.

nkm

F65


 Vice-Chairman

1-8-97. List on 6-8-97.
By order.

w/s. ad rejoinder
is in view.

6-8-97. Adjourned to 8-8-97.

By order.

SD
578

w/s. ad rejoinder
is in view.

8-8-97. Adjourned to 11-8-97.
By order.

SD
578

11-8-97. Passed over for the
day.

By order

12-8-97. Passed over for the day.

By order

6.17.299/96

13.8.97

Heard counsel of both sides. Hearing concluded. Judgment delivered in open Court, kept in separate sheets.

Application is allowed in terms of the order. No order as to costs.

Vice-Chairman

293/98

pg
15
24/3/98

date) 26-3-98

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 299 of 1996

and

302 of 1996.

Date of Order : This the 13th Day of August, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

O.A.No. 299 of 1996

All India Telecom Employees Union
Line Staff and Group 'D'
Assam Circle, Guwahati & another

... Applicants

- Versus -

Union of India & Ors.

... Respondents.

O.A.No. 302 of 1996.

All India Telecom Employees Union
Line Staff and Group 'D'
Assam Circle, Guwahati & another

... Applicants

- Versus -

Union of India & Ors.

... Respondents.

Advocate for the applicants : S/Shri B.K.Sharma
S.Sarma.

Advocate for the respondents: Shri A.K.Choudhury,
Addl.C.G.S.C.

O R D E R

BARUAH J.(V.C.)

Both the applications involve common questions of law and similar facts. In both the applications the applicants have prayed for a direction to the respondents to give them certain benefit which are being given to their counter parts working in the postal department. The facts of the cases are :

O.A.302/96 has been filed by All India Telecom Employees Union Line Staff and Group 'D', Assam Circle, Guwahati represented by the Secretary Shri J.N.Mishra and also by Shri Upen Pradhan, a Casual Labourer in the office

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contd.. 2

of the Divisional Engineer, Guwahati. In O.A.299/96, the case has been filed by the same Union and the applicant No.2 is also a casual labourer. The applicant No.1 in O.A.299/96 represents the interest of the casual labourers referred to in Annexure-A to the Original Application and the applicant No.2 is one of such casual labourers mentioned in Annexure-A. Their grievances are :

They are working as casual labourers in the department of Telecom under Ministry of Communications. They are similarly situated with the casual labourers working in the postal department under the same Ministry. Similarly the members of the applicant No.1 are also casual labourers working in the telecom department. They are also similarly situated with their counter parts in the postal department. They are working as casual labourers. However, the benefit which had been extended to the casual labourers working in the Postal Department under the Ministry of Communications have not been given to the casual labourers of the applicant Unions. The applicants state that pursuant to the judgment of the Apex Court in Daily Rated Casual Labourers employed under P&T Department vs. Union of India & Ors. reported in (1988) 1 SCC 122 the apex Court directed the department to prepare a scheme for absorption of the Casual Labourers who were continuously working in the department for more than one year for giving certain benefits. Accordingly a scheme was prepared by the Department of Posts granting benefit to the casual labourers who had rendered 240 days of service in a year. Thereafter many writ petitions had been filed by the casual labourers, working under the department of Telecommunications before the apex Court praying for direction to give similar benefits to them as was extended to the casual

labourers of department of Posts. Those cases were disposed of in similar terms as in the judgment of Daily Rated Casual Labourers (supra). The Apex Court, after considering the entire matter directed the department to give the similar benefit to the casual labourers working under the Telecom Department in similar manner. Pursuant to the said judgment the Ministry of Communications prepared a scheme known as "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme" on 7.11.1989. Under the said scheme certain benefit had been granted to the casual labourers such as conferment of temporary status, wages and daily rates with reference to the minimum of the pay scale etc. Thereafter, by a letter dated 17.3.1993 certain clarification was issued in respect of the scheme in which it had been stipulated that the benefits of the scheme should be confined to the Casual Labourers engaged during the period from 31.3.1985 to 22.6.1988. On the other hand the casual labourers worked in the department of Posts as on 21.11.1989 were eligible for temporary status. The time fixed as 21.11.1989 had been further extended pursuant to a judgment of the Ernakulam Bench of the Tribunal dated 13.3.1995 passed in O.A.No.750/94. Pursuant to that judgment, the Government of India issued a letter dated 1.11.1995 conferring the benefit of temporary status to the casual labourers. The present applicants being employees under the Telecom Department under the Ministry of Communications also urged before the concerned authorities that they should also be given same benefit. In this connection the casual employees submitted a representation dated 29.12.1995 before the Chairman, Telecom Commission, New Delhi but to the knowledge of the applicant the said representation has not yet been disposed of. Hence the present applications.

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contd..4

3. O.A.299/96 is also of similar facts. The grievance of the applicants are also same.

4. Heard both sides. Mr B.K.Sharma, learned counsel appearing on behalf of the applicants in both the cases submits that the apex Court having been granted the benefit of temporary status and regularisation to the casual labourers, should also be made available to the casual labourers working under Telecom Department under the same Ministry. Mr Sharma further submits that the action in not giving the benefit to the applicants is unfair and unreasonable. Mr A.K.Choudhury, learned Addl.C.G.S.C for the respondents does not dispute the submission of Mr Sharma. He submits that the entire matter relating to the regularisation of casual labourers are being discussed in the JCM level at New Delhi, however, no decision has yet been taken. In view of the above, I am of the opinion that the present applicants who are similarly situated are also entitled to get the benefit of the scheme of Casual Labourers (Grant of Temporary Status and Regularisation) prepared by the Department of Telecom. Therefore, I direct the respondents to give the similar benefit as has been extended to the casual labourers working in the Postal Department as per Annexure-3 (in O.A. 302/96) and Annexure-4 (in O.A.299/96) to the applicants respectively and this must be done as early as possible and at any rate within a period of 3 months from the date of receipt copy of this order.

However, considering the entire facts and circumstances of the case I make no order as to costs.

ପାତାଲିପିତା

SD- Vice-Chairman

1040
31 DEC 1996
Guwahati Bench
গুৱাহাটী মেজিস্ট্ৰেট

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH
AT GUWAHATI

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

Title of the Case : O.A. No. 299 of 1996

All India Telecom Employees Union
Line Staff and Group "D" Assam Circle,
Guwahati & Another

Applicants

-Versus-

Union of India & Others

Respondents

I N D E X

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3.	Annexure-A	...
4.	Annexure-1	...
5.	Annexure-2	...
6.	Annexure-3	...
7.	Annexure-4	...

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For use in Tribunal's Office :

Date of filing : 31/12/96

Registration No. : A 299/96

REGISTRAR

Case heard on 8/12/96
Mr. A.L. Choudhury
B.A. (G.S.)
Case heard on

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

BETWEEN

1. All India Telecom Employees Union
Line Staff and Group "D"
Assam Circle, Guwahati represented
by the Circle Secretary Shri J.N. Mishra.
2. Shri Niranjan Kalita,
Casual Labourer in the office
of the S.D.O. (West-I),
Guwahati.

..... Applicants

AND

1. The Union of India,
represented by the Secretary,
Ministry of Communication, Govt. of India,
New Delhi.
2. The Director General,
Department of Telecommunication,
New Delhi.
3. The Chairman, Telecom Commission,
New Delhi-110001
4. The *Chief General Manager Telecom*,
Assam Telecom Circle, Nubari,
Guwahati-7 Respondents

DETAILS OF APPLICATION

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

The instant application is not directed against any particular order but has been made for appropriate direction of this Hon'ble Tribunal to the respondents to extend the similar benefits and treatment to the casual labourers represented by applicants in this instant application as have been extended to the casual labourers of the Department of Posts.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION :

The applicant further declares that the instant application has been filed within the limitation period prescribed under Section 21 of the Administration Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 The applicant No. 1 is the Circle Secretary of All India Telecom Employees Union Line Staff and Group-D, Assam Telecom Circle, Guwahati.

4.2 That in the instant application the applicant No. 1 represents the interest of casual labourers as named in the Annexure-A to this Original Application. The applicant No. 2 is one of the casual labourers as listed in Annexure-A to this O.A. Presently he is working as the casual labourer in the office of the S.D.O. (West-I), Guwahati. He is similarly situated like that of the other casual labourers on whose behalf the instant application has been filed by the applicant No. 1. Accordingly, there is same cause of action and reliefs sought for are also same. Thus the instant application may be permitted to be moved under Rule 5(4)(a) of the C.A.T. (Procedure) Rules, 1987.

A list containing the names of the applicants to the O.A. is annexed as ANNEXURE-A.

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4.3 That the casual labourers whose interest are being represented in the instant case have been continuing in their services in different offices of the Department of Telecommunication under the Assam circle.

4.4 That pursuant to a judgment delivered in respect of casual labourers in the Department of Posts, the casual labourers working the Department of Telecommunication had approached the Hon'ble Supreme Court for similar direction as was rendered in respect of casual labourers of the Department of Posts. The Hon'ble Supreme Court acting on several writ petitions issued certain directions for the casual labourers in the department of Telecommunication in the same line as that of the judgment delivered in respect of the casual labourers of the Department of Posts. It will be pertinent to mention here that both the Departments i.e. the Department of Posts and the Department of Telecommunication fall under the same Ministry i.e. the Ministry of Communication.

A copy of the said Judgment delivered in respect of the casual labourers is annexed hereto as ANNEXURE-1.

4.5 That pursuant to the aforesaid Judgment, the Government of India, Ministry of Communication has prepared a scheme under the name and style "Casual Labourer (Grant of Temporary Status and Regularisation) Scheme" and the same was communicated vide letter No. 269-10/89-STN dated 7.11.89.

A copy of the said letter dated 7.11.89 together with scheme is annexed hereto as **ANNEXURE-2.**

4.6 That as per the said Scheme, certain benefits have been granted to the casual labourers such as confirmation of temporary status, wages and daily rates with reference to the minimum pay scale for regular Group D officials including D.A., H.R.A. and C.C.A. etc.

4.7 That the respondents after issuance of the aforesaid Annexure-2 letter dated 7.11.89 communicating the scheme has also issued further clarification from time to time of which mention may be made of letter No. 269-4/93-STW-II dated 17.12.93 by which it was stipulated that the benefit of the scheme should be confined to the casual labourers who were engaged during the period from 31.3.85 to 22.6.88.

A copy of the said letter dated 17.12.93 is annexed herewith as **ANNEXURE-3.**

4.8 That on the other hand the casual labourers working in the Department of Posts who were in employment as on 29.11.89 were eligible to be conferred as "temporary status" on satisfying the other eligibility conditions. The stipulated condition dated 29.11.89 has now been further extended upto 10.9.93 pursuant to a judgment of the Ernakulam Bench of C.A.T. delivered on 13.3.95 in O.A. 750/94. Pursuant to the said judgment delivered by the Ernakulam Bench of the C.A.T., the Government of India issued letter No. 66-52/92-SPB-I dated 1.11.95 by which the benefit of conferring

temporary status to the casual labourers have been extended to the recruits upto 10.9.93.

A copy of the said letter dated 1.11.95 is annexed as
ANNEXURE A

The applicant has not been able to get hold of an authenticate copy of the said letter and accordingly, the respondents may be directed to produce an authenticate copy of the same at the time of hearing of the instant case.

4.9 That the aforesaid judgment and the circular of the Government of India is required to be extended to the casual labourers of the Department of Telecommunication, more so when they are similarly situated with that of the casual labourers working in the Department of Posts. As stated above, both the Departments are under the same Ministry and the schemes were prepared pursuant to the Supreme Court's Judgment referred to above. There cannot be any earthly reason as to why the applicants shall not be extended the same benefit as have been extended to the casual labourers working in the Department of Posts.

4.10 That the applicants state that the casual labourers working in the Department of Telecommunication are similarly situated with that of the casual labourers working the department of Posts. In both the cases, relevant scheme was prepared as per the direction of the Hon'ble Supreme Court and the Hon'ble Supreme Court delivered their Judgment in respect of the casual labourers of the Department of Posts.

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telecommunication following the judgment delivered in respect of the casual labourers of the Department of Posts. As already stated above, both the Departments are under the same Ministry i.e. the Ministry of Communication. There is apparent discrimination in respect of both the sets of casual labourers though working under the same Ministry. The casual labourers working in the Department of Posts on attaining the temporary status are granted much more benefits than the casual labourers of the Department of Telecommunicatioin. Similar benefits are required to be extended to the casual labourers of the Department of Telecommunication having regard to the fact that both the Departments i.e. the Departmentof Telecommunciation and the and Department of Posts are under the same Ministry and basic foundation of the scheme for both the Departments are Supreme Court's Judgment referred to above. If the casual labourers of the Department of Posts can be extended with the benefits as enumerated above based on the Supreme Court's Judgment, there is no earthly reason as to why the casual labourers of the Department of Telecommunication should not be extended with the similar benefits.

4.11 That the applicant No. 1 in view of the above discrimination in respect of the casual labourers working under the Telecommunication Department, Assam Circle made a representation to the Chairman, Telecom Commission, New Delhi vide its letter No.ASM/LS/CM/95 dated 29.12.95. In the said representation, apart from other grievances it was pointed out that the Director General, Posts has issued order in respect of the casual labourers of the Department of Posts that they, on completion of three years of service

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as temporary status Mazdoor will be treated as temporary Group-D staff. Thus it was contended in their representation that the benefits which have been enjoyed by the temporary status Mazdoor in Postal Wing should also be extended to the casual labourers working in the Telecom Wing like that of the Postal Wing.

A copy of the said representation dated 29.12.95 is annexed hereto as ANNEXURE-5

4.12 That the applicants state that inspite of the aforesaid representation and many other representations both oral and in writing, the respondents are sitting over the matter and have not done anything towards redressal of the grievances of the casual labourers working in the Department of Telecommunication, Assam Circle. This has resulted in discrimination in violation of Articles 14 and 16 of the Constitution of India. The Government of India being a model employer cannot make to different sets of rules arising out of same Judgment in respect of two different wings under it although under the same Ministry. In both the cases, certain benefits were extended in preparation of a scheme pursuant to the judgment of the Hon'ble Supreme Court. However, in respect of casual labourers working in the Department of Posts certain more benefits have been extended and they have been virtually treated as Group-D employees. The casual labourers whom the present applicants represent in this O.A. being similarly situated are required to be extended with same benefits as have been extended in respect of the casual labourers of the Department of Posts.

4.13 That the denial of the aforesaid benefits to the casual labourers of the Department of Telecommunication has resulted in discrimination and there is gross violation of the principles innunciated in Articles 14 and 16 of the Constitution of India. There is no intelligible differentia so as to deprive the members of the applicant union who are working in different offices of the Telecommunicatioin under the Assam Circle as casual labourers.

4.14 That the instant application has been filed for appropriate direction by this Hon'ble Tribunal towards redressal of the grievances of the casual labourers whom the applicant union represents in this O.A. The members of the applicant union being similarly circumstanced with that of the casual labourers working in the Department of Posts, they are entitled to benefits as have been extended to the said casual labourers. The denial of the same to them has resulted in hostile discrimination and hence this O.A. for appropriate relief.

4.15 That the applicants state that the casual labourers as enumerated in the Annexure-A to this O.A. have been working in different offices of the Department of Telecommunication under Assam Circle. In view of the restriction imposed in respect of the casual labourers working in the Department of Telecommunication, many of them who are otherwise eligible to be conferred with temporary status which entitle them to certain benefits are yet to get those benefits. The scheme which has been made applicable to the casual labourers the Department of Telecommunication has been restricted upto 22.6.88 as against the target date fixed for the casual

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labourers working in the Department of Posts as 10.9.93. This has resulted in hostile discrimination in violation of the Articles 14 and 16 of the Constitution of India.

4.16 That the applicants state that it is a settled position of law that when some principles have been laid down in a given case, these principles are required to be made applicable to other similarly situated cases without requiring the incumbents to approach the Hon'ble Court ; but in the instant case, inspite of the judgment of the Hon'ble Ernakulam Bench delivered in respect of the casual labourers of the Department of Posts, the Department of Telecommunication under the same Ministry has not yet extended the said benefits to the casual labourers working under them. The applicants state that inspite of their best efforts, they have not been able to collect the judgment delivered by the Ernakulam Bench pursuant to which the Annexure-4 letter was issued. Accordingly, the respondents may be directed to produce a copy of the said Judgment at the time of hearing of the instant application.

4.17 That the applicants state that in a nutshell their whole grievance that differential treatment have been meted out to the casual labourers as enumerated in Annexure-A to this O.A. in comparision to the casual labourers working in the Department of Posts. Both the categories are under the same Ministry and certain benefits are granted to them pursuant to the aforesaid judgment. Under these circumstances, there is no earthly reason as to why the applicants and for that matter the members of the applicants No. 1 and 2 should be deprived of such benefits. Hence this

application for appropriate relief to the members of the applicant No. 1 as enumerated in Annexure-1 to this O.A. and also to the applicant No.2.

5.GROUNDS FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the denial of the similar benefits to the casual labourers whom the applicant union represents in the instant case is *prima facie* illegal and arbitrary.

5.2 For that the benefits which the casual labourers working in the Department of Posts are deriving having been based on the Supreme Court's Judgment and the similar judgment relying on the said judgment having been delivered in respect of the casual labourers of the Department of Telecommunication and both the Departments under the same Ministry there is no earthly reason as to why the said benefits should not be extended to the members of the applicant.

5.3 For that it is the settled principle of law that when some principles have been laid down in any Judgment extending certain benefits to certain set of employees, the said benefits are required to be extended to the similarly situated employees without requiring them to approach the Court again. The Central Government should set an example of a model employer by extending the said benefits to the members of the applicant union.

5.4 For that the discrimination meted out to the members of the applicant is not based on any reasonable intelligible

differentia and accordingly the same is violative of Articles 14 and 16 of the Constitution of India.

5.5 For that if the benefits which have been given to the casual labourers of the Department of Posts can be extended based on the Supreme Court's judgment there is no earthly reasons as to why the said benefits should not be extended to the casual labourers of the Department of Telecommunication, they having been similarly situated with that of the casual labourers of the Department of Posts.

5.6 For that both the sets of the casual labourers working in the Department of Posts and Department of Telecommunication working in the same environment and condition and they belong to the same Ministry accordingly, the benefits extended to one Wing of Ministry should also be extended to other Wing of the Ministry i.e. the Telecom Wing, otherwise, same will result in hostile discrimination.

5.7 For that in any view of the matter, the action/inaction on the part of the respondents are not sustainable and appropriate direction is required to be given in the instant case.

6. DETAILS OF REMEDIES EXHAUSTED :

That the applicant declares that they have exhausted all the remedies available to them and there is no alternative remedy available to them.

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

The applicants further declare that they have not previously filed any application, writ petition or suit regarding the grievances in respect of which this application is made before any Court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT :

Under the facts and circumstances stated above, the applicants most respectfully pray that the instant application be admitted, records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of the records, be pleased to grant the following reliefs to the applicant :

- (i) To direct the respondents to extend similar benefits as has been extended to the casual labourers of the Department of Posts vide Annexure-3 to the members of the applicants working as casual labourers in different offices under the Assam Telecom Circle. The aforesaid benefits be extended to the aforesaid members of the applicant union with retrospective effect i.e. with effect from the date from which the casual labourers of the Department of Posts have been extended with the said benefits.

(ii) That the members of the applicant and so also the applicant No. 2 be granted with the benefit of temporary status as has been extended to the casual labourers of the Department of Posts and as also under Annexure-3 letter dated 1.11.95 i.e. the target date 22.6.88 be extended upto 10.9.93 as has been extended in respect of casual labourers of the Department of Posts.

(iii) Cost of the application

(iv) any other benefit or benefits to which the aforesaid members of the applicant union may be extended to and as may be deemed fit and proper.

9. INTERIM ORDER PRAYED :

Pending disposal of this application, the applicants pray for an interim direction to the Respondents to dispose of their representation submitted vide Annexure-4 dated 29.12.95.

10.

The application is filed through Advocate.

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

11.1 I.P.O. No. : 8 11 444978

11.2 Date : 31/12

11.3 Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

S.D.E. Transmission, Dibrugarh.

1. Shrimati Basanti Chetri, W/C Late Keshab Chetri	1-7-93.
2. Shri Ajoy Roy	.. Shri Jogendra Roy
3. " X Gobinda Baiman	.. " Narayan Barman
4. " Subodh Sarkar	.. " Pulchand Sarkar
5. " Mukut Gogoi	.. " Mukheswar Gogoi
6. " Ajit Chakraborty	.. N/A
7. " Girindra Sonowal	.. " Dayananda Sonowal
8. " Govinda Hazarika	.. " Naren Hazarika

S.D.O.P. (E-I & II)/S.D.O.P. (C-I & II)/S.D.O.P. (W-I & II), GH.

Sl.No.	Name of the Masdoors	Father's name	Date of entry in the Department
1.	Shri Manturam Das	Shri J.C.Das	22-6-88
2.	" Niranjan Kalita	" R.R.Kalita	June/89
3.	" Jadunath Deka	" S.C.Deka	8 Feb/89
4.	" Dhaneswar Bora	" P.N.Bora	Feb/89
5.	" Kiran Ch.Das	" M.C.Das	Feb/89.
6.	" Mustim Ali	" D.B.Ali	Feb/89
7.	" Aniram Basumatari	" M.R.Basumatari	Feb/89.
8.	" Praneswar Das	" B.C.Das	Feb/89
9.	" Dimbeswar Das	" J.C.Das	Feb/89
10.	" Jadupati Deka	" P.C.Deka	Feb/89
11.	" Dilip Kumar Gayari	" L.R.Gayari	Feb/89
12.	" Biren Ch.Boro	" H.R.Boro	Feb/89
13.	" Biren Ch. Bharali	" T.Bharali	Feb/89
14.	" Mahendra Kalita	" Chandra Kalita	Feb/89
15.	" Dwijen Kalita	" P.Kalita	Feb/89
16.	" Dhiren Kalita	" K.R.Kalita	April/88
17.	" Ramanand Rai	" D.Rai	Feb/89
18.	" Kusheswar Rai	" D.Rai	May/89
19.	" Bipul Ch.Barman	" Nabin Ch.Barman	January/93
20.	" Dipen G.Momin	" N.Marak	January/93
21.	" Upen Sangma	" C.Marak	January/93
22.	" Stencon Marak	" T.Sangma	January/93.

S.D.E., Noornati, Guwahati

Sl.No.	Name of the Masdoor	Father's name	Date of entry in the Department
1.	Shri Babul Das	Shri G.R.Das	10-5-87
2.	Divakar Das	" Giridhar Das	9-4-87
3.	Raghubansh Patel	" Surajdeo Patel	1-1-90
4.	Manish Talukdar	" P.Talukdar	2-5-87
5.	Dinesh Singh	" Sitaram Singh	1-3-90
6.	Dasaratha Singh	" Nandalal Singh	1-1-88
7.	Bhagawan Rout	" Kedar Rout	1-3-88
8.	Mahendra Nath Harijan	Shri J.N.Harijan	7-83
9.	Pradip Rajbanshi	" B.Rajbanshi	1-8-90

NAGAON

Sl.No.	Name of the Mandoor	Father's name	Date of entry in the Deptt.
1.	Shri Chandra Kanta Nath	Shri Gopal Ch.Nath	1-5-88
2.	" Radha Kanta Bordoloi	" Deba.Nath Bordoloi	21-1-87
3.	" Ananta Ch.Das	" Padu Ram Das	1-7-87
4.	" Hari Ch.Das	" R.K.Das	1-1-87
5.	" Akan Singh Gaokhowa	" Jataran Gaokhowa	1-1-87
6.	" Joy Gopal Das	" J.N.Das	3-6-87
7.	" Ananta Khakxx Konwar	" R.Singh Konwar	1-1-88
8.	" Hiralal Basumatari	" J.C.Basumatari	1-5-88
9.	" Gakul Ch.Bora	" B.R.Bora	1-1-89
10.	" Dilip Kr.Bora	" G.K.Bora	1-1-89
11.	" Rajen Bey	" Suresh Bey	19-2-88
12.	" Jayanta Bora	" U.Bora	
13.	" Ramji Prasad	" Babban Ram	
14.	" Babul Mohela	" Ramhor Mohela	1-6-87
15.	" Ashok Kr.Boro	" Sunanda Boro	14-9-90
16.	Smti Devi Rani Paul	S.C.Paul	20-1-93
17.	Shri Babul Saikia	" Umaram Saikia	1-1-89
18.	" Sibu Sankar Kundu	" S.N.Kundu	10-1-89
19.	" Prabir Kr.Bondopadhyay	" A.K.Bondopadhyay	11-1-89
20.	" Rajen Rajkhowa	" D.Rajkhowa	15-1-89
21.	" Sambhu Chakraborty	" Monmoth Chakraborty	1-1-89
22.	" Ashok Ch.Dey	" Ananta Kr's Dey	1-2-89
23.	" Pradip Barman	" Monoranjan Barman	1-9-89
24.	" Atul Ch.Kakati	" B.Kakati	1-1-88
25.	" Tarun Ch.Ekki Kalita	" H.K.Kalita	1-1-88
26.	" Sanjeet Kr.Banik	" M.C.Banik	1-6-89

A.E., C.T.T.C., Guwahati

Sl.No.	Name of the Mandoor	Father's name	Date of entry in the Deptt.
1.	Shri Subhash Ch.Dey	Late Monoranjan Dey	5-8-1988
2.	" Uttam Paul	Shri Sushil Ch.Paul	1-7-1991
3.	" Bimal Kumar	Late Haren Kumar	2-8-1991
4.	" Bhubaneswar Kalita	Shri Bipin Ch.Kalita	9-5-91

After
9/5/91

ANNEXURE A (CONT'D) Page- 8

Karimganj

Sl.No.	Name of the Masdoors	Father's name	Date of entry in the Department.
1.	Shri Prafulla Ch.Das	Shri Jay Kishor Das	January/89
2.	" Sujit Kr.Roy	" Sudhir Ch.Roy	January/89
3.	" Sudhir Barman	" Hachuni Barman	January/89
4.	" Nikilesh Roy	Late Nandalal Roy	January/89
5.	" Kamal Malakar	Shri Makan Ch. Malakar	January/89
6.	" Pintu Roy	" Niranjan Roy	January/89
7.	" Jitendra Kr.Roy	" Jamini Kr.Roy	January/89
8.	" Samsul Alam	" Abdul Gani	January/89
9.	" Pritu Bhushan Roy	" Purna Ch.Roy	January/89
10.	" Hilaluddin Mazumdar	" Massadar Ali	January/89
11.	" Mrinal Kanti Namasudra		January/91
12.	" Ajoy Kr.Das	Shri Pabitra Kr.Das	January/89
13.	" K Bimal Kr.Das	" Rasimoy Das	January/89
14.	" Parimal Das	" Pradumnya Das	January/89
15.	" Kafiluddin	" Abdul Rauf	January/89
16.	" Sajal Kr.Das	" Lalit Mohan Das	January/89
17.	" Sumanta Das	" Suresh Ch.Das	January/89
18.	" Kusul Kr.Das	" Mantu Kr.Das	January/89
19.	" Anjan Das	" H.M.Das	January/89
20.	" Yakub Ali	" Rajaque Ali	January/89
21.	" Tapan Kr.Das	" Upendra Ch.Das	January/89
22.	" Dipendu Malakar	" Digendra Mukul Malakar	January/92
23.	" Jyotirmay Das	" Jitendra Ch.Das	January/89
24.	" Kutan Das	" Surendra Das	January/89

Moran Branch = S.D.O.T., Moran :

Sl.No.	Name of the Masdoors.	Father's name	Date of entry in the Department.
1.	Shri Raju Deb		July/88
2.	" Pradip Sahu		July/88
3.	" Drunakanta Dowrah		Sept/88
4.	" Pabitra Gogoi		April/85
5.	" Birendra Singh		January/88
6.	" Dhaniram Bhakta		April/85
7.	" Prabin Changmai		January/91
8.	" Naresh Mech		1-4-72
9.	" Nirup Deb		March/92
10.	" Rajesh Das		April/92
11.	" Yadav Changmai		April/88
12.	" Jabbar Hussain		August/88
13.	" Krishna Bahadur Thappa		August/88
14.	" Sainen Das		January/87
15.	" Ajit Das		Feb/88
16.	" Digna Kr.Datta		January/90

Check to be

S.D.O.T., Golaghat

Sl.No.	Name of the Masdoors	Father's name	Date of entry in the Department.
1.	Shri Lakhinath Chetia	Shri B.Chetia	June/92
2.	" Deben Dewri	" T.Dewri	June/91
3.	" Loken Dewri	" T.Dewri	June/92
4.	" Babu Bhattacharjee	" A.Bhattacharjee	June/92
5.	" Ranjit Sarma	" C.B.Sarma	June/92
6.	" Sadananda Chetia	" N.Chetia	Feb/88
7.	" Prabin Chetia	" U.Chetia	June/92
8.	" Girin Dewri	" T.Dewri	June/92
9.	" Ajit Sarma	" B.N.Sarma	March/91
10.	" Sanjay Goswami	" S.Goswami	June/92
11.	" Rabin Chetia	" Upen Chetia	June/92
12.	" Bimal Chetia	" Tankeswar Chetia	June/92
13.	" Purna Manki	" M.Manki	1-1-92
14.	" Madan Bordoloi	" B.Bordoloi	1-1-92
15.	" Rakesh Chetia	" B.Chetia	1-1-90
16.	" Bipul Ch.Phukan	" G.K.Phukan	1-1-90
17.	" Ashim Hazarika	" M.C.Hazarika	1-1-92
18.	" Thaneswar Saikia	" B.Saikia	1-1-93
19.	" Yadra Gogoi	" R.Gogoi	1-3-93
20.	" Rtrm Pratap Bora	" M.Bora	1-1-90
21.	" Hemanta Gogoi	" C.Gogoi	1-1-93
22.	" Saharlal Manki	" G.Manki	1-1-90
23.	" Dharmeswar Manki	" B.R.Manki	1-1-90
24.	" Manoj Hazarika	" J.C.Hazarika	1-1-90
25.	" Mukut Saikia	" B.Saikia	1-1-90
26.	" Apul Borbora	" K.Borbora	1-1-92
27.	" Palash Neog	" M.C.Neog	1-1-92
28.	" Dilip Saikia	" B.Saikia	1-1-92

S.D.E.Cable, Guwahati and S.D.O.T., Kamrup, Guwahati

Sl.No.	Name of the Masdoors	Father's name	Date of entry in the Department.
1.	Shri Reyas Akhtar	Shri Ali Raza	1-1-87. Cable
2.	" Krishna Ram Das	" B.R.Das	1-2-89. GH.
3.	" Babulal Singh	" Nandalal Singh	1-1-88
4.	" Abdul Ali	" Tahatulla Ali	1-4-88
5.	" Niranjan Thakur	" P.Thakur	1-4-88
6.	" Janani Ram Baishya	" K.Baishya	1-1-88
7.	" Ram Ch.Dewry	" M.Dewry	1-9-89.
8.	" Jay Shakar Pandey	" S.P.Pandey	1-1-93 SDOT
9.	" Hirendra Hazarika	" D.Hazarika	-1-93 Kamrup.

S.D.O.T.Dibrugarh

Sl.No.	Name of the Mazdoors	Father's name	Date of entry in the Department
1.	Shri Nagen Das	Shri Nabin Das	January/88
2.	" Shri Shankar Bhadra	Late Shanti Bhadra	Feb/88
3.	" Mofisur Rahman	Late Yusuf Rahman	August/88
4.	" Tanil Sangmai	Shri S.Sangmai	Oct/88
5.	" Ajit Kalita	" B.R.Kalita	January/89
6.	" Tarun Hazarika		January/89
7.	" Khargadhar Hazarika	Late P.C.Hazarika	April/89
8.	Miss Mamoni Datta	Late S.R.Datta	August/89
9.	Shri Dipak Das	Shri R.K.Das	Sept/89
10.	" Sujit Hazarika	" B.C.Hazarika	January/90
11.	" Khageswar Phukan	" H.C.Phukan	January/91
12.	" Bugan Hazarika	Late M.Hazarika	April/91
13.	" Kushal Hogoi	Shri K.Gogoi	April/91
14.	" Pranab Hazarika	" M.R.Hazarika	April/92
15.	" Nirub Deb	" N.Deb	March/92
16.	" Rajesh Das	" J.R.Das	March/92
17.	" Kishor Kr.Gaur	" M.L.Gaur	Sept/92
18.	" Rajib Gogoi	" D.Gogoi	Oct/92
19.	" Dilip Majumdar	" R.Majumdar	March/91
20.	" Suren Roy	" D.Roy	January/93

Microwave Project and Maintenance, Guwahati.

Sl.No.	Name of the Mazdoors	Father's name	Date of entry in the Department
1.	Shri Haladhar Das	Shri B.R.Das	1-1-89
2.	" Dilip Bhagawati	" G.C.Bhagawati	1-4-91
3.	" S.Sarma	" G.Sarma	1-4-91
4.	" K.Singh	" R.D.Singh	1-4-91
5.	" H.Boro	" H.D.Boro	1-8-93
6.	" Lalit Deka	Late Lohit Deka	1-2-92
7.	" K.Sarma	Shri D.Sarma	1-8-93
8.	" D.Basumatari	Late R.N.Basumatari	1-8-93
9.	" D.Barman	Late K.K.Barman	1-8-93
10.	" Kobindra Singh	Shri Ramdeo Singh	1-4-90
11.	" Udhaba Deka	" Nandi ram Deka	1-2-92
12.	" Meghnath Rai	Late Rajdeo Rai	1-2-92
13.	" Biren Kalita	Shri Harmohan Kalita	1-5-93
14.	" Bimal Ch.Dey	" B.C.Dey	1-7-90
15.	" Sayed Ali	Late Hajan Ali	11-12-91
16.	" Nava Kr.Choudhury	Shri Dina Choudhury	1-4-92
17.	" Sankar Kr.Saha	" Chandramohan Saha	11-8-93

ANNEXURE-A (contd) Page- 12

EGMT Task Force, O/O the Director O.F.C., Guwahati.

Sl.No.	Name of the Mazdoor	Father's name	Date of entry in Dept.
1.	Shri N.Majumdar	Shri K.L.Majumdar	15-4-92
2.	" Sapan Sarkar	" Tarani Sarkar	4-4-93
3.	" Maya Ram Boro	" Deban Boro	13-4-93
4.	" Premod Kr.Rai	" Lakhi Rai	1-2-93
5.	" Arup Kr.Sarmah	" S.N.Sarmah	9-4-93
6.	" Bijon Roy	" M.Roy	1-2-93
7.	" Rabin Goswami	Late Ghanakanti Goswami	3-3-93
8.	" Khitish Das	Shri Bhetu Ram Das	23-3-93
9.	" Arun Kr.Mahato	" Debendra Mahato	2-4-93
10.	" Bipul Barua	" M.D.Barua	1-4-93
11.	" Hareswar Das	" M.R.Das	1-3-93
12.	" Naba Kumar Pathak	Late B.R.Pathak	3-6-93
13.	" Ghahashyam Das	Late M.C.Das	4-1-93
14.	" Binod Kumar		1-1-89
15.	" Tarani Boro		1-4-92
16.	" Ambika Roy	Shri Girish Ch.Roy	9-5-93
17.	" Rajmohan Baishya	" Tarun Baishya	9-8-91
18.	" Satyajit Roy	" B.N.Roy	13-6-92
19.	" Ram Pradhan	" D.B.Pradhan	2-3-93
20.	" Paren Pathak	" R.Pathak	1-2-93

2x

Drawn by

Absorption of Casual Labours
Supreme Court directive Department of Telecom to take back
all Casual Mazdoors who have been discharged after 30.3.1985

In the Supreme Court of India
Civil Original Jurisdiction

Writ Petition (C) No. 1280 of 1989

Ram Gopal & Ors. Petitioners
-Versus-
Union of India & Ors. Respondents

With

Writ Petition Nos. 1246, 1248 of 1986, 176, 177 and 1248 of
1988

Jant Singh & Ors. etc. etc. Petitioners
-Versus-
Union of India & Ors. Respondents

ORDER

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

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

By the said Judgment this Court said :

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

Revised 9/11/88

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92
Annex. 1 contd.

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

Sd/-
(Ranganath Misra) J.

New Delhi
April 17. 1990.

Sd/-
(Kuldeep Singh) J.

• *Rawat*
6

23
ANNEXURE-2

CIRCULAR NO. 1
Government of India
Department of Telecommunications
STN Section

No. 269-10/89-STN

New Delhi 7.11.89

To

The Chief General managers, Telecom Circles,
M.T.H.I. New Delhi/Bombay, Metro Dist.Madras/
Calcutta,
Heads of all other Administrative Units.

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

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

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

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

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

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

Ref: 92

24
91
Annex. 2 contd.

4. The scheme furnished in the Annexure has the concurrence of Member (Finance) of the Telecom Commission vide No. SMF/78/89 dated 27.9.89.

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

Sd/-
ASSISTANT DIRECTOR GENERAL (STN)

COPY TO :

P.S. to MDS(C)

P.S. to Chairman, Telecom Commission

Member (S)/Adviser (HRD), GM (Est), GM (IR) for information
MCG/SEA/TE-II/IPS/Admn. I/CSE/PAT/SPB-I/SR Secs.

All recognised Unions/Associations/Federations.

Sd/-
ASSISTANT DIRECTOR GENERAL (STN)

Revd 20/10/89

ANNEUXRE

Casual Labourers (Grant of Temporary Status and Regularisation) Scheme.

1. This scheme shall be called "Casual Labourers (Grant of temporary Status and Regularisation) Scheme of the Department of Telecommunications, 1989"
2. This Scheme will come in force with effect from 1.10.89 onwards.
3. This Scheme is applicable to the casual labourers employed by the Department of Telecommunications.
4. The provisions in the Scheme would be as under :
 - A) Vacancies in the Group "D" cadres in various offices of the Department of Telecommunications would be exclusively filled by regularisation of casual labourers and no outsiders would be appointed to the cadre except in the case of appointments on compassionate grounds, till the absorption of all existing casual labourers fulfilling the eligibility conditions including the educational qualifications prescribed in the relevant Recruitment Rules. However, regular Group D staff rendered surplus for any reason will have prior claim for absorption against existing/future vacancies. In the case of illiterate casual labourers, the regularisation will be considered only against those posts in respect of which illiteracy will not be an impediment in the performance of duties. They would be allowed age relaxation equivalent to the period for which they had worked continuously as casual labour for the purposes of the age limits prescribed for appointment to the Group D cadre, if required. Outside recruitment for filling up the vacancies in Gr. D will be permitted only under the condition when eligible casual labourers are NOT available.
 - B) Till regular Gr. D vacancies are available to absorb all the casual labourers to whom this Scheme is applicable, the casual labourers would be conferred a **Temporary Status** as per the details given below.

Temporary Status

- i) Temporary Status would be conferred on all the casual labourers currently employed and who have rendered a continuous service of at least one year, out of which they must have been engaged on work for a period of 240 days (206 days in the case of offices observing five day week). Such casual labourers will be designated as Temporary Mazdoor.

Revised

- ii) Such conferment of temporary status would be without reference to the creation/availability of regular Gr. D posts.
- iii) Conferment of temporary status on a casual labourer would not involve any change in his duties and responsibilities. The engagement will be on daily rates of pay on a need basis. He may be deployed anywhere within the recruitment unit/territorial circles on the basis of availability of work.
- iv) Such casual labourers who acquire temporary status will not, however, be brought on to the permanent establishment unless they are selected through regular selection process for Gr. D posts.

6. Temporary status would entitle the Casual labourers to the following benefits :

- i) Wages at daily rates with reference to the minimum of the pay scale for a regular Gr. D official including DA, HRA and CCA.
- ii) Benefits in respect of increments in pay scale will be admissible for every one year of service subject to performance of duty for at least 240 days (206 days in administrative offices observing 5 days week) in the year.
- iii) Leave entitlement will be on a pre-rata basis, one day for every 10 days of week. Casual leave or any other kind of leave will not be admissible. They will also be allowed to carry forward the leave at their credit on their regularisation. They will not be entitled to the benefit of encashment of leave on termination of services for any reason or their quitting service.
- iv) counting of 50% of service rendered under Temporary Status for the purpose of retirement benefits after their regularisation.
- v) After rendering three years continuous service on attainment of temporary status, the casual labourers would be treated on par with temporary Gr. D employees for the purpose of contribution to General Provident Fund and would also further be eligible for the grant of Festival advance/Flood advance on the same conditions as are applicable to temporary Gr. D employees, provided they furnish two sureties from permanent Govt. servants of this Department.
- vi) Until they are regularised, they would be entitled to Productivity Linked Bonus only at rates as applicable to casual labour.

Dawd

Annex. 2 contd.

7. No benefits other than those specified above will be admissible to casual labourers with temporary status.

8. Despite conferment of temporary status, the services of a casual labourer may be dispensed with in accordance with the relevant provisions of the Industrial Disputes Act, 1947 on the ground of availability of work. A casual labourer with temporary status can quit service by giving one month's notice.

9. If a labourer with temporary status commits a misconduct and the same is proved in an enquiry after giving him reasonable opportunity, his services will be dispensed with. They will not be entitled to the benefit of encashment of leave on termination of services.

10. The Department of Telecommunications will have the power to make amendments in the Scheme and/or to issue instructions in details within the framing of the Scheme.

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Alived
P.R.

NO. 269-4/93 STN- II
GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS
STN Section

Dated New Delhi, 17 Dec. 1993

To,

All Heads of Telecom. Circles/Metro Telecom. Distt.
All Heads of other Administrative Offices,
All Heads of Mtce. Regions/Project Circles.

Subject :

Casual Labourers (Grant of Temporary Status and
Regularisation) Scheme, 1989 engaged in Circles
after 30.3.85 and upto 22.06.88.

Sir,

I am directed to refer to this office order No. 269-4/93-STN dated 25th June, 1993, where in orders were issued to extend the temporary status to all these Casual Mazdoors who were engaged by the Project Circles/Electrification Circles, during the period 31.3.85 to 22.5.88 and who were still continuing for much works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

2. The matter has further been examined in this office and it is decided that all those Casual mazdoors who were engaged by the Circles during the period from 31.3.85 to 22.6.88 and who are still continuing for such works in the Circles where they were initially engaged and who are not absent for the last more than 365 days counting from the date of issue of this order, be brought under the above said Scheme.

3. The engagement of Casual Mazdoors after 30.3.85, in violation of the instructions of the Head Quarter, has been viewed very seriously & it is decided that all past cases wherein recruitments has been made in violation of instructions of the Head Quarter dtd. 30.3.85 should also be analysed and disciplinary action be initiated against defaulting Officers.

4. It has also been decided that engagement of any ex Casual Mazdoors after the issue of this order should be viewed very seriously and brought to the notice of the appropriate authority for taking prompt and suitable action. This should be the personal responsibility of the Heads of Circles, concerned Class II Officers and amount paid to such Casual Mazdoors towards wages should be recovered from the person who has recruited/engaged Casual Labour in violation of these instructions.

Recd 2/5

CASUAL LABOURERS (GRANT OF TEMPORARY STATUS
AND REGULARISATION) SCHEME.

No. 66-52/92-SPB/1

Dated. 1.11.95 .

I am directed to refer to the scheme on the above subject issued by this office vide letters No. 45-95/87 SPB-I dated 12.4.91 and No. 66-9/91 -SPB. I dated 30.11.92 as per which full time casual labourers who were in employment as on 29.11.89 were eligible to be conferred " temporary Status" on satisfying other eligibility conditions .

The question of extending the benefits of the scheme to those full time casual labourers who were engaged recruited after 29.11.89 has been considered in this office in the light of the judgement of the CAT Renakulam Brencli Erakulam delivered on 13-3-95 in O.A. NO 750 / 1994 .

It has been decided that full time casual labourers recruit after 29-11-89 and upto 10-9-93 may also be considered for the grant of benefits under the Scheme .

(2) This issues with the approval of IS and F.A. vide Dy. No. 2423/95 dated 9-10-95.

R.S.G.

ALL INDIA TELECOM EMPLOYEES UNION
LINE STAFF & GROUP - D. ASSAM
CIRCLE BRANCH : P&T HOUSE
DR J.C. DAS ROAD : PANBAZAR.
GUWAHATI- 781001.

No. ASH/LS/GM/95

Dated Guwahati the 29th December '95

To,

The Chairman,
Telecom Commission,
New Delhi - 110001.

(Through Chief General Manager, Assam Telecom Circle)

Sub :- Casual Labourers (Grant of Temporary Status and
Regt Regularisation) Scheme .

Ref :- My letter dated 6-10-95.

Sir,

I am to intimate that the Department of post issued a Circular vide his letter No. 66-52/92-SPB-I dtd. 1-11-95 (Copy enclosed) for declaration of Temporary Status Mazdoor engaged upto 10-9-93 as per Verdict of CAT Ernakulam But no such order issued in respect of the same from Telecom. Wings.

Further, you are aware that the D.G. Post issued a order that these who have been Completed 3(Three) years of service as Temporary Status Mazdoors will be treated as Temporary Group- D staff . Hence, the benefits of Group-1, has been enjoying by the Temporary Status Mazdoors in Postal Wing but sorry to inform you that these facilities not yet been implemented in Telecom, Wing like Postal Wing.

In this regard, I would like to mention here that the Telecom. Directorate has been asked a statement from C.G.M.T: Assam Circle for Casual Mazdoors working in the Circle upto Decembor, 1994. The same statement has since been forwarded to the Telecom. Directorate by the CGMT Assam Circle, Guwahati.

But there is no instructions issued from the Directorate to declare the Temporary Status Mazdoor working upto Dec'94.

I also pointed out that there are more than 2000 (Two thousand) Casual Mazdoors awaiting declaration of Temporary Status Mazdoor in the Assam Telecom Circle .

I would therefore request you kindly to issue necessary instructions to the authority concerned to declare Temporary Status Mazdoor working upto Decembor, 1994 in this Department and arrange to issue a guideline/instructions to the authority concerned to declare the working Casual Mazdoors as Temporary Status Mazdoors.

Thanking You,

Copy to:

Secy Gen. WPTC : Pan N/

Yours faithfully,

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH

O.A. No. 299/96

All India Telecom Employees' Union, Line Staff and Group-D, Assam Circle and Anr.

... Applicants

- VERSUS -

The Union of India & Ors. ... Respondents

SYNOPSIS

1. The Applicant No. 1 represents the interest of the casual labourers as named in the Annexure-A to the O.A. The applicant No.2 is one of the casual labourers listed at Annexure-A to the O.A. Their grievances are that although the casual labourers working in the Department of Telecommunication are similarly situated with that of the Casual Labourers working in the Department of Posts, but in their case certain benefits being enjoyed by the Casual Labourers of the Department of Posts have not been extended. It is the case of the Applicants that such differential treatment is violative of Article 14 of the Constitution of India..

2. That pursuant to the judgment delivered in respect of the Casual Labourers in the Department of Posts as reported in (1988) 1 SCC 122 by which the Department of Posts was directed to prepare a scheme for absorption of the Casual Labourers continuously working in the department for more than one year, such a scheme was prepared by the Department of Posts

File by
Gopinath Sarma
Advocate

granting benefit of temporary status to the Casual Labourers who have rendered 240 days of service in a year. Thereafter many Writ petitions were filed by the Casual Labourers working in the Department of Telecommunication before the Hon'ble Supreme Court urging for similar benefits as was extended to the Casual Labourers working in the Department of Posts. Thus the writ petitions were disposed of following the judgment delivered in respect of the Casual Labourers of the Department of Posts. By the said judgment dated 17.4.90 (Annexure-1) to the O.A. the Department of Telecommunication was directed to prepare a scheme on a rotational basis for absorption of Casual Labourers who have continuously worked for more than one year in the Department of Telecommunication.

3. That pursuant to the aforesaid Judgment the Government of India, Ministry of Communication prepared a Scheme under the name and style "Casual Labour (Grant of Temporary Status and Regularisation) Scheme" and the same was communicated vide Annexure-2 letter dated 7.11.89. Under the said scheme certain benefits have been granted to the Casual Labourers such as conferment of temporary status, wages and daily rates with reference to the minimum of the pay scale etc. Thereafter vide Annexure-3 letter dated 17.3.93 certain clarification was issued in respect of the scheme by which it was stipulated that the benefits of the scheme should be confined to the Casual Labourers who were

engaged during the period from 31.3.85 to 22.6.88. On the other hand the Casual Labourers worked in the Department of Posts who were in employment as on 21.11.89 were eligible to be conferred with temporary status. This time limit on 22.11.89 has been further extended perusant to a judgment of th Ernakulam Bench of the Hon'ble Tribunal delivered on 13.3.95 in O.A. 750/94. Pursuant to this judgment, the Government of India has issued Annexure-4 letter dated 1.11.95 by which the benefit of conferring temporary status of the Casual Labourers have been extended to the recruits upto 10.9.93.

It is the case of the Applicants that the aforesaid Judgment and Annexure-4 circular of the Government of India is required to be extended to the Casual Labourers working in the Department of Telecommunication more so when they are similarly situated belonging to the same Ministry and the Schemes in respect of both the departments were prepared pursuant to the Judgment of the Hon'ble Supreme Court referred to above.

The present position is that the conferment of temporary status etc. pursuant to the scheme prepared by the Department of Telecommunication is admissible only to those Casual Labourers who were engaged during the period from 31.3.85 to 22.6.88 i.e. the recruits after 22.6.88 cannot get the benefits of temporary

status, but on the other hand, such benefits are admissible to the Casual Labourers working in the Department of Posts and who are recruited upto 10.9.93. Thus there is an apparent discrimination among the Casual Labourers working in the earlier integrated department under the same Ministry. After the Annexure-1 Supreme Court Judgment dated 17.4.90, there cannot be any earthly reason as to why similar benefits should not be extended to the Casual Labourers working in the Department of Telecommunication. The applicants submitted Annexure-5 representation dated 29.12.95, but no response has been made to the said representation. Hence the present O.A. for a direction to the Respondents to grant similar benefits to the Casual Labourers as enumerated at Annexure-A i.e. the benefits extended to the Casual Labourers of the Department of Posts vide Annexure-3 dated 1.11.95. Accordingly the target date of 22.6.88 is required to be extended upto 10.9.93 as has been extended in respect of the Casual Labourers working in the Department of Posts. Different criteria and yardstick for the Casual Labourers working in the Department of Posts and Department of Telecommunication will be highly discriminatory and opposed to the equality clause enshrined under Article 14 of the Constitution of India.

U5
O.A. No. 302/96

All India Telecom Employees' Union, Line
Staff and Group-D, Assam Circle and Anr.

... Applicants

- VERSUS -

The Union of India & Ors. ... Respondents

SYNOPSIS

This application has also been filed by the Applicants asking for similar benefits to the Casual Labourers working in the Department of Telecommunication as have been extended to their counter-parts in the Department of Posts. As already enumerated above, schemes for conferment of temporary status etc, have been prepared both for the Department of Posts and Department of Telecommunication pursuant to the Apex Court's Judgment referred to above.

The Casual Labourers working in the Department of Posts have been granted certain more benefits vide Annexure-3 order dated 30.11.92. This order refers to a judgment dated 29.11.89 of the Apex Court by which it has been held that after rendering three years of continuous service with temporary status, the Casual Labourers shall be treated at par with the temporary Group-D employees of the Department of Posts and would thereby be entitled to such benefits as are admissible

to the Group-D employees on regular basis. By this order, the Casual Labourers on completion of three years of service with temporary status have been given the benefits admissible to temporary Group-D employees as enumerated in the Annexure-3 order dated 30.11.92. The grievance made in this application is that the Casual Labourers even after three years of continuous service with temporary status are not entitled with those benefits which on the face of it is discriminatory and violative of Article 14 of the Constitution of India.

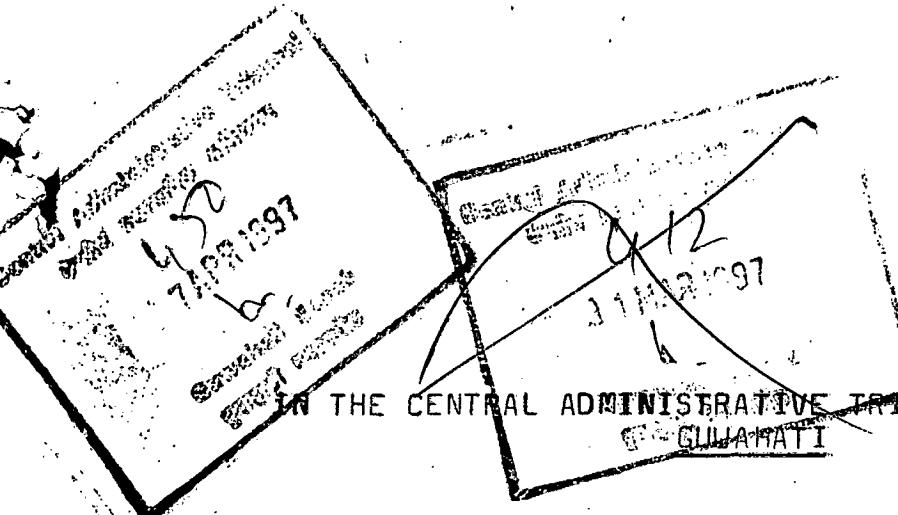
It is the case of the Applicants that the Casual Labourers working in the Department of Telecommunication are similarly situated with their counter-parts in the Department of Posts. Both the departments at one point of time were one and the same. Even after bifurcation they are under the same Ministry and the duties and responsibilities performed by the Casual Labourers in the Department of Telecommunication are the same with that of the Casual Labourers in the Department of Posts, if not more onerous.

In view of the above, the Applicants seek direction from this Hon'ble Tribunal for a direction to the Respondents to extend the same benefits as have been extended to the Casual Labourers of the Department of Posts vide Annexure-3.

That in view of the above, both the Application i.e. O.A. 299/96 and 302/96 deserve to be allowed which will uphold the equality clause enshrined in the Constitution of India.

31

58
Filed by:
A. K. Chaudhury
5.3.97
A.W. Central Govt.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL::GUWAHATI BENCH
GUWAHATI

In the matter of :-

O.A. No 299 of 1996

All India Telecom Employees Union
Line Staff & Group "D" Assam Circle
Guwahati & others Applican

-Versus-

Union of India & Ors. Responde

Written statement for and on behalf of the
Respondents Nos. 1, 2, 3 and 4.

I, B. Dasgupta, Asstt. Director (Legal) Office of the
Chief General Manager, Telecom, Assam Circle, Guwahati
do hereby solemnly affirm and say as follows :-

1. That I am the Assistant Director (Legal) Office of the
Chief General Manager, Telecom, Assam Circle, Guwahati and am
acquainted with the facts and circumstances of the case. I
have gone through a copy of the application and have understood the
contents thereof. Save and except whatever is specifically
admitted in this written statement the other contentions and
statements made in the application may be deemed to have been
denied. I am authorised to file this written statements on
behalf of all the Respondents.

2. That with reference to paragraph 1 of the application
the Respondents beg to state that the application is not
maintainable. Under The Administrative Tribunals Act, 1985
under section 19 provides that " (1) Subject to the other
provisions of this Act a person aggrieved by any ORDER pertaining
to any matter within the jurisdiction of a Tribunal may make
application to the Tribunal for the redressal of his grievance.

Contd. p/2-

B. Dasgupta

Asst. Director Telecom (Legal)
O/D to C. G. M. Telecom
Circle, Guwahati-781007

"It clearly means that an ORDER must be passed by the competent authority and should be in existence which is in any way effect the applicant. It is admitted in para 1 of the OA that the instant application is not directed against any particular order so to say there exist no such order passed in the Department of Telecommunication which is challenged. The Department of Personal and Training also observed that there cannot be parity within the officials between two Departments namely DOT and DOP and both the Department have got their own policies. Copy of Letter No.271-15/97-STN-II, dated 19-2-97 received from Asstt. Director General (STN)/ New Delhi enclosed as Annexure-B. Hence it is prayed that the OA in the question is ^{not} a fit case for admission and is liable to be dismissed.

3. That the Respondents have no comments to the statement made in paragraph 2,3 and 4.1 of the application.

4. That with reference to paragraph 4.2 of the application the Respondents beg to state that the Annexure-A mentioned in the OA is not supplied along with the copy of the application. As such the respondents are not in a position to verify the genuineness of the claim made in this application. The ~~xx~~ statement made by the applicant no. I, ~~xx~~ the Circle Secretary of all India Telecom Employees Union Line Staff and Group-D Assam Circle, Guwahati, that he "represents the interest of casual labourers as named in Annexure-A" is disputed. As per the Administrative Tribunals Act Status of Applicant (Copy enclosed as Annexure-B in the written statement) are explained as "Normally only an individual person has to file an application. The Tribunal may, however, permit more than one person to join together and file a single application, if it is satisfied, having regard to the cause of action and the nature of relief prayed for, they have a common interest in the matter. A separate application has to be filed seeking necessary permission in this regard.

Such permission is also granted to an association representing members desirous of joining in a single application and having a common cause of action. In this regard the respondents like to draw attention of the Hon'ble Tribunal to the fact that the above mentioned Union in no case can claim that casual labourers are their enrolled members.

The respondents enclosing a copy of circular No.13-1/85-SRT dated 31-5-95 the DOT/New Delhi by which the process of verification of membership of the service association / unions was initiated. In the enclosure of the said letter the details of employees covered under the category "The Line Staff & Group-D Employees" are specifically indicated. A copy of the same is enclosed in Annexure-R2. The applicant No.1 in this para tends to misguide the Hon'ble Tribunal with erroneous twisting of actual fact. In fact the casual labourers engaged in the Deptt. of Telecommunication cannot be members of the said union (to which applicant No.1 is Circle Secretary) as per the constitutional bye laws of the union, It is prayed that the applicant may be directed to produce authentic proof about the claim made in the application about the fact that casual labourers are bonafide members of their ~~xx~~ union. The respondent prays to the Hon'ble Tribunal that such permission granted by the under section 4(5) of The Central Administrative Tribunals (Procedure) Rules, 1987 may be re-examined. And if found not valid said OA may be dismissed straightaway.

5. That with reference to paragraph 4.3 of the application the Respondents beg to state that as no list of the casual labourers are furnished along with the said OA, authenticity of the statement made in the para could not be verified.

6. That with reference to paragraph 4.4 of the application the Respondents beg to state that the necessary direction made in the Apex Court judgment mentioned in the para is implemented by the DOT. It is contested that the judgment delivered by the Apex Court or any other Tribunals for DOP can not be straight way applicable to the DOT, more because of the fact that both DOT & DOP fall under the same Ministry. The Applicants are not ignorant of the fact in many cases, even for regular employees of DOT and DOP rules and regulations are not exactly identical. The Department of Personal and Training, also observed that there cannot be any parity within the labourers engaged between two Departments namely DOT and DOP. Annexure-R1 may kindly be seen. Hence no parity may be ordered between the casual labourers of both the Departments simply because they are under same Ministry.

7. That the Respondents have no comments to the statements made in paragraph 4.5, 4.6, 4.7 and 4.8 of the application.

8. That with reference to paragraph 4.9 and 4.10 of the application the Respondents beg to state that the Department of Personal and Training observed that there cannot be any parity within the labourers engaged between two Departments namely DOT AND DOP. Annexure-A may kindly be perused. Hence no parity may be ordered between the casual labourers of both the Departments simply because they are under same Ministry.

9. That with reference to paragraph 4.11 and 4.12 of the application the Respondents beg to state that the applicant No.1 being a Circle Secretary of a recognized union is not authorised to represent any case directly to the Chairman, Telecom Commission in his official capacity as per be-law of the union. The Secretary Central of CHQ of the staff unions is only authorised to take up the related matter with Chairman in this case. The necessary Guide Line regarding Channel of Communications issued vide DOT / New Delhi letter No.13-1/85-~~5~~ dated 4-2-87 is given as Annexure-Q.3 Moreover the Staff Unions are permitted to take up the cases related to their members. It is once again stressed here that the casual labourers can not be enrolled as members of the represented union. In this very point there is a intention on the part of applicant 1 to misguide the Hon'ble Tribunal. The responder beg to submit that no comparison can be made between the engagement of casual labourer in the DOT & DOP as nature of work in the two Departments are not exactly identical hence the question of discrimination as mentioned in the para can not be claimed. Hence entire argument put forth in the OA carries no weight at all. The application is liable to be dismissed.

10. That with reference to the statements made in paragraph 4.13 of the application the Respondents beg to state that there is no violation of Article 14 & 16 of Constitution of India, as it disputes the basic fact that the casual member of the applicant union.

11. That with reference to the statements made in paragraph 4.14 of the application the Respondents beg to state that no comparison can be made between the engagement of casual labour in the DOT & DOP as nature of work in the two Departments are not exactly identical hence the question of discrimination as mentioned in the para can not be claimed. Hence entire argument put forth in the OA carries no weight at all.

12. That with reference to the statements made in paragraph 4.15 of the application the Respondents beg to state that Annexure-A as mentioned in the OA is not supplied to the respondents along with the copies of OA and as such verification of the statement made in the para could not be done. And the question of parity of casual labourers of the Department of Post And the Department of Telecommunication can not be raised as explained in Annexure-R1

13. That with reference to the statements made in paragraph 4.16 of the application the Respondents beg to state that the Department of Telecommunication can not take any action based on the observance made by the Ernakulam Bench of Hon'ble CAT AND THE direction issued there of, as the said direction was for the Department of Post. It is quite unlikely the applicants represented through learned advocate are unaware of this technical point. Every case has to be decided based on its merit only. The respondents are not in a position to procure any copy of the Judgment as mentioned in the para as they were not made a party in the case and also for the reason it is no way related to the DOT.

14. That with reference to the statements made in paragraph 4.17 of the application the Respondents beg to state that no relief is admissible to the members of the said union as explained above.

Further, the respondents beg to state that the entire members matter relating to the regularisation of Casual Labourers are being discussed in the JCM level at New Delhi by the CHQ of the represented union for consideration of the Chairman Commission New Delhi. The matter is across the table and under negotiation. Efforts are on to settle the issue. So at this stage it is felt not desirable to bring the case under the preview of Hon'ble Tribunal. This if allowed even for once may frustrate the entire process of negotiated settlement through J.C.M. The applicant is not unaware of the above fact as JCM has representation from the CHQ members of the applicant union also. In one side the Union, as a member of JCM, opted for the negotiation and in the other hand the

Contd. p/6-

Asstt. Director Telecom (Legal)
C/o Dr. C. G. M. Telecom
1, B...

a/k
m

// 6 //

same union is filing a OA in the Hon'ble Tribunal. It is felt in this process the applicant violated the provisions under section 20 (1) of the Administrative Tribunal Act, 1985. Hence the OA is not maintainable and liable to be dismissed.

15. That with reference to paragraph 5.1 to 5.7 of the application the Respondents beg to state that the validity of the grounds mentioned in the paras is questionable, in view of the fact as explained in earlier paras. The Hon'ble Tribunal may be pleased to dismiss the application.

16. That with reference to paragraph 6 of the application the Respondents beg to state that the declaration made by the applicant I is not correct as explained above. Also because of the fact that the matter is across the table in the JCM and The DOT for negotiated settlement.

17. That the Respondents have no comments to the statement made in paragraph 7 of the applications.

18. That with reference to paragraph 8 of the application the Respondents beg to state that no relief is admissible as the applicants in the OA tried to misguide the Hon'ble Tribunal by producing incorrect information (a) regarding membership of their union, (b) all remedies exhausted. The OA it self is not maintainable and liable to be dismissed.

19. That with reference to paragraph 9 of the application the Respondents beg to state that the interim order as prayed may not be granted as it will violet the by-law of the recognised staff union as explained in paras 4.11 and 4.12 above.

20. That the Respondents have no comments to the statement made in paragraph 10 to 12 of the application.

21. That the applicant is not entitled to any relief sought for in the application and the same is liable to be dismissed with costs.

VERIFICATION

I, B. Dasgupta, Asstt. Director (Legal) Office of the Chief General Manager, Telecom, Assam Circle, Guwahati, do hereby declare that the statements made in this written statements are true to my knowledge arrived from the records of the case.

I sign this Verification of this the 27th day of March 1997 at Guwahati.

Baidyut Dasgupta
Asstt. Director (Legal)
DEPONENT

7 Annexure R-I

COURT CASE of
MOST IMMEDIATE

Annexure - R-I

GM

Govt. of India
Ministry of Communications
Department of Telecommunications

Sanchar Bhavan,
20-Ashoka Rd.,
New Delhi-110001.

No. 271-15/97-STN-II

Dated: 19.2.97

To:

The Chief General Manager,
Assam Telecom Circle,
GUWAHATI-781007.

Sub: OA No. 302/96 and 279/96 of CAT Guwahati- reg.

Kindly refer to your letter No. STES-21/134 dt. 10.2.97 on the above mentioned subject and I am directed to say that Unions have raised the demand in J.C.M. regarding grant of similar benefits to the temporary status mazdoors of DOT on completion of three years as given by the Deptt. of Posts. This issue is still under the examination in the Directorate. In fact the Deptt. of Posts granted all benefits to their Temporary Status Mazdoors on completion of three years in pursuance of Hon'ble Supreme Court directions in its judgement dt. 29.11.89 i WP No.1119/1986 to avoid contempt proceedings. There is no such direction from Supreme Court in the case of Temporary Status Mazdoors of Deptt. of Telecom.

2. The Deptt. of Personnel & Trg. also observed that there cannot be any parity within the officials between two Department namely DOT and DOP and the both the Departments have got their own policies.

3. In the light of above, the case may be defended strongly and effectively on behalf of all the respondents in consultation with the Govt. Standing Counsel as any adverse judgement will affect us badly.

4. The copies of documents as desired vide your letter under reference are enclosed herewith.

5. I am also directed to say that Dy.General Manager (A) may kindly be deputed to Directorate for understanding this case Assathreadbare so as to effectively defend it.

W. C. Gupta

(V.K.GUPTA)
Assistant Director General (STN)

A. H. S. S.

17/3/97

Asst. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781007.

1112

Government of India
Department of Telecommunications
Sanchay Bhawan, New-Delhi-110001.

File No. 13-1/85-SRT

Dated the 31st May, 1995.

To,

All Heads of Circles

Sub :- IMPLEMENTATION OF CCS (RSA) RULES, 1993 - PROCESS - FOR
VERIFICATION OF MEMBERSHIP

Ref :- i. Letter No. 13-1/85-SRT, dated 6.12.1993
ii. " do " dated 28.2.1994
iii. " do " dated 15.2.1995
iv. No. 2-7/93-TAI dated 08.4.1994

Kindly refer to the above letters wherein it was intimated, that the service associations /unions would have to go through a fresh process of recognition under the above rules circulated under reference (i). Accordingly, it has been decided to get the field units to be in readiness for obtaining the membership forms filled.

1. A set of guidelines, is enclosed, have been prepared which could serve as check list to be followed by the Head of Circle, DDO, Controlling Officer/office. The copy of the letter of authorisation marked as Annexure 1 is also enclosed along with the instructions for filling which will have to be given to all the staff members on receipt of instructions from TCHQ.
2. You are requested to go through the instructions to the Heads of Circle carefully and ensure compliance. The entire process is time bound and will have to be completed as per the prescribed time schedule.

Encl: as above.

Sd/-

(T.S. KUPPUSWAMY)

DY. DIRECTOR GENERAL (SR)

*Attached**Swd*

Asstt. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781007

R-2
Page 2

9

Instructions to DDO

1. The DDO should ensure that he has received the forms from all the controlling officers falling under his jurisdiction and the same are in order.
2. The DDO SHOULD TAKE ACTION TO DEDUCT THE ANNUAL SUBSCRIPTION AMOUNT from the salary of the concerned member, on a monthly basis, as authorised by him and arrange for its remittance to the concerned service union/association.
3. After recovery of the membership fee, the DDO may take ACTION TO COMPILE THE RECOVERY as stipulated under the accounting procedure as outlined under DOT(TA Section) Memo No.2-7/93-TA1 dated 8-4-94, with amendments if any, and submit the same to Head of his Circle through a confidential letter. The proforma for compilation and submission to the Circle Office is given in item (5) below.
4. The DDO should FORWARD THE ABOVE LIST SO PREPARED to the Head of the Circle through a confidential letter within the time prescribed by the Head of the Circle.
5. The remittance by the DDO, to the Branch Unions should be effected according to the nomination received from the unions for such purposes. Suitable nomination may be had with the nodal officer in the Circle for obtaining these nomination from the union concerned.
6. Proforma of statement to be made by the DDO to the Nodal Office(Head of Circle)

Sl.No.	Category	Total no.of employees in that category	Names of the Association/ union	Membership as per check	Remarks of system	
(1)	(2)	(3)	(4)	(5)	(6)	

7. The categorisation list enclosed may be consulted for the purpose of filling the above proforma.

Contd to...2/

Attached.

tom
Asstt. Director Telecom (Legal)
O/O the C.G.M. Telecom
Assam Circle, Guwahati-781007

L12

LIST OF CATEGORIES CONSTITUTED

Sl.	Name of Category	Details of employees covered
1.	Line Staff & Group 'D' Employees	Line Staff such as linemen, SIs, LIs, Regular Mazdoors & Gr D employees of the Telecom Engg, non industrial Gr D employees of Telecom Factories Telegraph Traffic, Accounts Wings of the Deptt. excluding the Gr D employees working in Circle HQrs offices, Civil Wing & WPC/Monitoring Organisation who are since included in other categorises viz. category Nos. 4, 5 & 7 respectively.
2.	Telecom Gr C employees	All Gr C employees of the Telecom Engineering, Telecom factories (non industrial employees), Telegraph Traffic & the Telecom Accounts Wings excluding Gr C employees working in the Circle HQrs offices, JTOs, JEs(Civil), Gr C employees of the Civil Wing and WPC/Monitoring

*Attested**brd*

Asstt. Director Telecom (Legal)
 O/O the C. G. M. Telecom
 Assam Circle, Guwahati-781007.

INSTRUCTIONS TO HEADS OF CIRCLE

1. The General Secretary of the respective Unions would be instructed by the TCHQ to nominate their representative to coordinate at the Circle level. Such a nomination (only one) when received from the General Secretary may be accepted. The names of General Secretaries will be issued by the TCHQ in due course. Further coordination for obtaining the nomination at all the Branch Unions can be had with this nominee. The nominee may be asked by the Circle to furnish both, to the Circle and the Controlling Officers/Offices, the names of authorised office bearers for signing the forms. This would also include nominations to be made for remittances of the membership subscription to be made by the DDO.
2. The last date for submission of forms is fixed as 14.7.1995. This should be PUBLICISED immediately at the time of issue of forms to staff.
3. He should ensure that the FORMS ARE KEPT READY in sufficient number with each of Controlling officer (not below Group B level) for issue to all the officials.
4. The instructions for issue of the forms along with the FINAL LIST of eligible applicant unions may be given after the FINAL LIST of eligible applicant unions has been communicated by TCHQ by an order. Such order will be issued in June, 1995.
5. The Head of Circle may NOMINATE A JAG LEVEL officer who will be the nodal point of the Circle to coordinate with the Telecom Hqrs. on all matters concerning the membership enrolment and subsequent recognition process.
6. He may ensure the compliance of instructions for the issue and COMPILATION OF THE INFORMATION BY THE CONTROLLING OFFICERS, DDOs concerned and ensure the availability of the consolidated information to Directorate from all the DDOs by 31st July, 1995.
7. The process of filling up the forms and its submission to the Controlling Officer SHOULD BE GOT COMPLETED latest by 14.7.95. The Controlling Officer should consolidate the information as per the forms and supply the same to DDOs by 18.7.95.
8. The Head of Circle may ensure that the recovery of subscription is affected by the DDO from the salary of July, 1995 payable on 31.7.95.
9. If any clarification is required the nodal Officer is Shri B.K.Kapur, Director (SR), TCHQ with Tel Nos. 3716876/3032751.

The nominated Nodal Officer in the Circle may keep in touch with the Nodal Officer in TCHQ from time to time to indicate the progress.

Affisted.

Ind

Asstt. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781007.

10. The Head of the Circle should ensure that having received the membership consolidated information as per Annexure II of the accounting procedure circulated by TA Section of TCHQ is submitted to him by each DDO in his Circle.

11. The information submitted by the DDOs shall be further COMPILED AT CIRCLE LEVEL IN ANNEXURE III of the accounting procedure and SUBMITTED TO TCHQ latest by 11.8.95.

12. The Head of Circle may keep the Circle level applicant unions informed so that the action plan proceeds strictly as per the above schedule. No action point should lag behind the target date in any case.

13. It is suggested that the following activities may be got completed in advance before issue of forms.

i. Preparing adequate number of MULTIPLE COPIES OF THE FORM and the instructions for filling. This can be done centrally or got done by concerned officers whichever may take less time.

ii. PREPARATION OF REGISTER according to the serial number of the form and the name of the applicant, designation, union etc. This will be signed at the time of receipt of forms as acknowledgement. This register will also be reconciled after the receipt of filled in forms from the applicant.

iii. The DDOs can keep the information relating to the STAFF STRENGTH, IN EACH CATEGORY in readiness. This information will have to be incorporated at the time of sending the compiled information to the Circle Office.

Attested

l.m.d

Asstt. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Gwahati-781007.

No. 13-1/85-SR

Dated the 4th February, 1997.

Sub :- UNAUTHORISEED COMMUNICATIONS FROM UNIONS

It has been found that Union/branches of Circle, Divisions or even sub-divisions, quite often address the communications to the Honourable MOC or senior officers or Honourable MPs or politicians on local affairs of either dispute with management or complaints against the concerned officers; or even criticising Department's policy matters.

2. In this regard the attention is drawn to the rules attached at annexure - 1.

3. The unions are having proper forum for communication i.e. meetings at SSA level, JCM meetings, meetings at circle levels and meetings at All India levels. In addition to that they can communicate through the concerned senior officers at their respective levels through letters as well as personal interviews.

4. It is therefore absolutely not justified nor necessary that unions of any level jump to any level of Government authorities. This is clear cut violation of rules on the subject of Channel of Communication.

5. It is therefore emphasised that these instructions may be brought to the knowledge of all Union office bearers at all levels to maintain the discipline of communication. Also they may be advised that disciplinary action will be initiated against them personally against signatories for violation of these rules.

sd/-

(P P KHARE)
DY. DIRECTOR GENERAL (SR)

To

All CGMs.

Attested :
bnd

Asstt. Director Telecom (Legal)
O/O the C. G. M. Telecom
Assam Circle, Guwahati-781007.

I. CHANNEL OF COMMUNICATIONS

1. Not relevant on the subject.
2. The All India Unions have their branches at Circle, Divisional and local levels. The Central Unions and their branches should correspond directly only with the authorities incharge of the unit they represent; i.e. a local union should correspond only with the local authority, a Divisional Union with the Divisional authority, a Circle Union with the Head of the Circle and the Central Unions with the DG or the Government through the D.G. [Ref: STB-150-19/52-STA dt. 28.10.52].
3. Representations of the Unions are limited to the matters concerning the unit they represent i.e. a Divisional Union should take up matter concerning the Division as a whole, the Circle Union, matters concerning the circle as a whole and the Central Unions matters of All India interest. If a Branch Union is not satisfied with the decision or reply given by its accredited authority, the next higher branch union may take up such matters with its accredited authorities and while doing so, the union should clearly state that the matter was taken up initially with the lower authorities concerned and state the replies or decision received from that authority. If Central Union intends to take up the matter concerning particular circle, it may submit a representation to the Director General but should bring about in the representation the fact that the Circle Branch Union took up the matter with the Head of the Circle and also state the reference of the same. [Ref: STB-150-19/52-STA dt. 28.10.52].
4. No action is to be taken on direct reference from branch unions except when specifically ordered by Minister / Deputy Minister/ Chairman, Telecom Board / Member of the Telecom Board. [Ref:-6-2/65-SR dated 3.8.1966].
5. On behalf of Unions / Associations, their General Secretaries or the holders of corresponding office or the President only should normally address the Administration. The Assistant Secretaries / Deputy General Secretaries / wherever specifically authorised by their General Secretaries, may also address communications to the Administration but the reference made by them should contain a clear indication that the same are being made under the authority of the General Secretary concerned. [Ref:31-1/64-SR dated 5.4.1966].

(Followed by other paras not concerned in present context)

II. The Service Association is formed primarily with the object of promoting the common interest of its member.

(Annexure I (b) - Compilation of Instructions issued vide letter no.10-12/87-SRT dated 5th May, 1987).

III. All representations by the Service Associations shall be submitted through proper channel, and shall, as a normal prac-

*Attached
Copy*
- Asstt. Director (Personnel & Legal)
O/o C/o C. G. M. Telecom
Circle, Gurukul-781001.

tice, be addressed to Secretary or Head of the Department, or Office.

(Annexure 2 (d) - Compilation of Instructions issued vide letter no.10-12/87-SRT dated 5th May, 1987).

IV. The Service Association shall not do any action or assist in the doing of any act which, if done by a Government servant, would contravene the provisions of rules 8, 9, 11, 12, 16 and 20 of the Central Civil (Conduct) Rules, 1964. (Annexure 2 (k) - Compilation of Instructions issued vide letter no.10-12/87-SRT dated 5th May, 1987).

V. CCS(Conduct) Rules, 1964 - Rule 8,9,11,12,16 and 20.

Rule 8 : Connection with the press or radio.

Rule 9 : Criticism of the Government:

Rule,11 : Unauthorised communication of information.

Rule, 12 : Subscription

Rule,16 : Investment, Lending and Borrowing.

Rule 20 : Convassing of non-official or other outside influence - No Government servant shall bring or attempt to bring any political or other outside influence to bear upon any superior authority to further his interests in respect of matters pertaining to his service under Government.

Service Matter

Service matter has been defined to mean all matters relating to the conditions of service, viz.,—

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters;
- (v) any other matter.

The definition is quite expansive and of wide connotation and has been held to cover other incidental and ancillary matters, like—

- (i) transfer;
- (ii) allotment of quarters;
- (iii) eviction proceedings under Public Premises Act;
- (iv) determination of marital status for purposes of family pension.

Filing of application

A person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance under Section 19 of the Act, in the prescribed form, giving details like the number, date and the authority which has passed the order, against which the application is made.

Place of filing

An application is ordinarily to be filed with the Registrar of the Bench of the Tribunal within whose jurisdiction the applicant is for the time being posted or the cause of action has arisen.

However, with the permission of the Chairman of the Principal Bench, New Delhi, an application may be filed there, heard and disposed of. The application form itself provides for a declaration to be furnished by the applicant that the subject-matter against which he wants redressal, is within the jurisdiction of the Tribunal, where he files the application.

Status of Applicant

Normally only an individual person has to file an application. The Tribunal may, however, permit more than one person to join together and file a single application, if it is satisfied, having regard to the cause

of action and the nature of relief prayed for, that they have a common interest in the matter. A separate application has to be filed seeking necessary permission in this regard.

Such permission is also granted to an association representing members desirous of joining in a single application and having a common cause of action.

Limitation

An application before the Tribunal has to be filed within one year from the date on which the final order has been made. Where an appeal/representation has been submitted by the person and the authority competent to pass final order has not passed the said order, application has to be filed after expiry of a period of six months from the submission of such appeal/representation and within one year from the date of expiry of the said period of six months. The application form itself provides for a declaration from the applicant that the application is within the limitation period prescribed.

The Act provides for admission of an application for disposal, in relaxation of the above limitation, if sufficient cause is shown for not making the application within such period. A separate application is required to be filed for condonation of delay, supported by an affidavit.

The period of limitation is reckoned with reference to the date of initial final order and is not revived by making repeated representation to the same authority.

Exhausting remedies

The Act specifically lays down that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievance. An applicant is deemed to have availed all the remedies available to him, if final order has been passed on his appeal/representation by the highest authority competent to pass such an order under the relevant rules/orders or if no such order is passed, after lapse of a period of six months from the date of such appeal/representation having been made.

The expression "ordinarily" in the context means generally and not always or in all cases. It indicates that the Tribunal is vested with some discretion in the matter which is to be exercised sparingly in extraordinary circumstances.

In the application to be filed, apart from declaring that he had exhausted all available remedies, the applicant has to furnish chronologically the details of representations made and the outcome of such representations with reference number and date.

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BEN

Filed by
Sister
Saror
C. Dabir
5-5-97

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

IN THE MATTER OF :-

O.A. No. 299 of 1996

All India Tele-comm. Employees' Union
Line Staff and Group 'D',
Assam Circle, Guwahati & another.

... Applicants.

Vs.

Union of India & Others.

... Respondents.

AND

IN THE MATTER OF :-

Rejoinder to the written statement
filed on behalf of respondent Nos.
1, 2 & 4.

The applicants beg to state as follows :-

1. That the applicants have gone through the copy of the written statements filed by the respondents and have understood the contents thereof. Save and except the statements which are specifically admitted here-in-below, other statements made in the written statements

Contd2

Recd. copy
R. Choudhury
5/5/97

are categorically denied. Further, the statements which are not borne on records are also denied.

2. That with regard to the statements made in paragraphs 1, 2 and 3 of the written statements, the applicants categorically deny the contentions made therein. The narrow interpretation which has been sought to be given by the respondents in respect of ORDER is upheld, then in that case, the very object and purpose of establishing the Hon'ble Tribunal will be frustrated. Moreover, the respondents of their own have shown the order dated 19.2.97. As regards the contention that there cannot be parity within the officials between 2 departments, namely, DOT and DOP, it appears that the respondents have ~~given~~ given weightage to Annexure 'R/1' order dtd 19.2.97 without any application of mind of their own. This is the precise why the instant application has been filed so as to bring parity in the matter of employment and service benefits. 2 Directorates under the same Ministry cannot have 2 different policies. Moreover, when some principles have been laid down by Court of law, same are required to be applied to other such similarly situated employees when all the factors are similarly situated.

3. That with regard to the statements made in paragraph 4 of the written statements, the applicants deny the contentions raised therein and crave leave of

- 3 -

the Hon'ble Tribunal to refer to the relevant provisions of the rules. In this connection, the applicants beg to state that the casual labourers are all members of the applicant no. 1. The respondents ought not to have raised the issue regarding membership of the casual labourers as has been raised in the written statements. There is no bar for casual labourers to become members of the applicant no. 1 under any law and accordingly, they being members of the applicant no. 1, the applicant no. 1 coupled with the applicant no. 2, is very much entitled to prefer the instant O.A. It is denied that Annexure 'A' mentioned in the O.A. has not been supplied along with the copy of the application. The respondents are called upon to substantiate their such claim by producing the copies of the O.A. numbering 4 which have been served on them. There is no question of re-examining the promotion granted by this Hon'ble Tribunal under Rule 4 (5)(b) of the CAT (Procedure) Rules, 1987. The instant O.A. is very much maintainable.

4. That with regard to the statements made in paragraph 5 of the written statements, the applicants while denying the contentions made therein, reiterate and reaffirm the statements made here-in-above.

5. That with regard to the statements made in paragraph 6 of the written statement, while denying the contentions made therein, the applicants reiterate and

- 4 -

reaffirm the statements made in paragraph 4.4 of the O.A. The applicants crave leave of the Hon'ble Tribunal to refer to the judgment of the Apex Court as well as the Hon'ble Tribunal. The respondents in their endeavour and over enthusiasm to thwart the claim of the applicants have raised all sorts of irrelevant pleas unbecoming of a model employer.

6. That with regard to the statements made in paragraph 7 of the written statement, the applicants reiterate and reaffirm the statements made in the O.A. In this connection, the applicants beg to state that in terms of Clause 'V' of Annexure '2' scheme, according to which, after rendering 3 years continuous service, certain benefits are applicable to the temporary status later. However, the Ernakulam Bench of the Hon'ble Tribunal on a reconsideration of the matter has issued direction for further benefits in implementation of which Annexure '4' order dtd 1.11.95 has been issued by the Deptt. of Post. Prior to that, temporary status benefit was not available to the casual labourers recruited upto 10.9.93 in the Deptt. of Post. There is no earthly reason as to why such benefit should not be extended to the casual labourers in the Deptt. of Tele-communication.

7. That with regard to the statements made in paragraph 8 of the written statements, the applicants state that merely because the Deptt. of Tele-communication has issued letter dtd 19.2.97, same cannot over-ride this Hon'ble Tribunal and the Hon'ble Tribunal will pass

appropriate order in respect of the applicants for which the applicants have come under the protective hands of this Hon'ble Tribunal.

8. That with regard to the statements made in paragraph 9 of the written statement, ~~Exhibit~~ the applicants deny the correctness of the same, and reiterate and reaffirm the statements made in paragraphs 4.11 and 4.12 of the O.A. Earlier, the Deptt. of Post and Tele-communication was a single Department. Although bifurcation took place, they remain to be under the same Ministry. Thus, there is no earthly reason as to why the casual labourers working in the DOT shold be metted out with discriminatory treatment with their counter-parts in the Deptt. of Post. They carry the same amount of work.

9. That with regard to the statements made in paragraphs 10, 11 and 12 of the written statements, the applicants while denying the contentions made therein, reiterate and reaffirm the statements made in the O.A. as well as here-in-above.

10. That with regard to the statements made in paragraph 13 of the written statements, the applicants categorically deny the statements made therein. Law is well settled that when some principle are laid down by a court of law, the same principles are required to be

applied to similarly situated persons and accordingly, the benefits which have been granted to the casual labourers of the DOP pursuant to the decisions of the Apex Court as well as Ernakulam Bench of the Hon'ble Tribunal, are also required to be extended to the applicants. It is unfortunate that the respondents have made statements like - "It is quite unlikely the applicants represented through Learned Advocate are unaware of this technical point". Such remarks on the part of the respondents are totally uncalled for who instead of acting as a model employer have resorted to raising all sorts of technical points only for the purpose of frustrating the genuine cause of the applicants. If the pleas of the respondents are allowed to stand, there will be abuse of the process of law and denial of justice, equity and fair-play.

11. That with regard to the statements made in paragraph 14 of the written statements, the applicants categorically deny the contentions made therein. It is unfortunate that the respondents have sought to give weightage to J.C.M over this Hon'ble Tribunal. In the name of negotiated settlement through J.C.M., the respondents cannot delay the matter. In any case, referring the matter to J.C.M. cannot be ground to close the forum of this Hon'ble Tribunal for the applicants. In any case, the so called

- 7 -

negotiation having not yielded any result, the applicants are constrain to approach this Hon'ble Tribunal. The respondents are called upon to substantiate their claim that the applicants have violated the provision 20(1) of the Administrative Tribunal Act, 1985 and that the O.A. is not maintainable and liable to be dismissed.

12. That with regard to the statements made in paragraphs 15 to 20 of the written statements, the applicants while denying the contentions made therein, reiterate and reaffirm the statements made here-in-above ~~andxxxxy~~ and so also in the O.A.

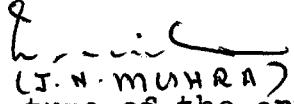
13. That in view of the facts and circumstances stated above, the instant O.A. deserves to be allowed with costs.

Verification.....8

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VERIFICATION.

I, Shri J.N. Misra, Circle Secretary, All India Tele-communication Employees' Union, Line Staff and Group 'D', Assam Tele-comm. Circle, Guwahati, do hereby verify and state that the statements made in paragraphs 1 and 2 are true to my knowledge, those made in paragraphs 3 to 12 being matters of records of the case are true to my information and the rests are my humble submission before this Hon'ble Tribunal. I have not suppressed any material fact and I sign this Verification on this 4th day of MAY 1997.


(J.N. MISRA)
(Signature of the applicant).