

50/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

ORIGINAL APPLICATION NO. 66/96
MISC. PETITION/CONSENT PETITION/REPLY APPLICATION NO. _____
(C.A.) _____

Josea Ram APPLICANT(S)

VS.

h-o-l 9om RESPONDENT(S)

Mr. J. L. Sankar, Mr. M. Chanda Advocate for Applicant(s)

Mr. G. Sarma, Addl. C.G.S.C. Advocate for Respondent(s)

OFFICE NOTE	DATE	O R D E R
No. _____ (form) and within _____ S. F. of Rs. 50 deposited vide NOISE No. <u>311278</u> Dated <u>8.1.96</u>	30.4.96	<p>Learned counsel Mr M.Chanda for the applicant and learned Addl.C.G.S.C Mr G.Sarma for the respondents are present.</p> <p>This application has been moved by Mr M.Chanda unlisted on the ground of urgency as the service of the applicant will stand terminated with effect from 1.5.1996. It has been stated by him that the applicant is still in service till today. Prayer to move the application is allowed.</p> <p>The applicant was one of the applicants in O.A.264/93. In our order dated 5.9.95 we had directed the respondents, among other things, to regularise the service of the applicant in accordance with rules against sanctioned post. On 25.3.96 vide notice No.3004/1/CC-3/Q the applicant was intimated that he had not fulfilled the age criteria for regular appointment as per terms and conditions prescribed for the post. It is not, however, clear whether this exercise was in pursuance of the aforesaid order dated 5.9.95 in O.A.264/93. However, in this notice the applicant has been intimated that his service will be terminated with effect from 1.5.96 or before on the ground of overage as stated in the notice. The</p>

Mr. Sankar
Mr. Chanda

(2)

OFFICE NOTE

DATE.

O R D E R.

30.4.96

has applicant/ in this application impugned this notice dated 25.3.96.

Heard Mr Chanda for admission. Perused the contents of the application and the reliefs sought. The main relief of the applicant is to quash the impugned notice, relax his age and regularise his service. Application is admitted. Issue notice on the respondents by registered post. Six weeks for written statement as requested by the learned Addl.C.G.S.C.

List on 17.6.96 for written statement and further orders. It is impressed on the Addl.C.G.S.C to ensure that the written statement is submitted on the date as allowed since early hearing as requested by Mr Chanda is necessary in this case as it involves termination of service of the applicant.

Heard Mr Chanda on the interim relief prayer. In this case it is noticed that in the verification and in the title of this O.A. the applicant has given his name as Shri Gora Ram, son of late Nathuni Ram Dusyhad working as Conservancy Safaiwala in the EME Battelion, Changsari. In Annexure 2, an affidavit purported to have been sworn by the applicant, the name of the applicant has been shown as Goram Dusad son of late Bhageloram Dusad, village Batiamari, P.S.Panery. His date of birth is claimed as 2.1.1950. In Annexure 3 stated to be a temporary pass for civilians being pass No.4 valid upto 31.12.79, the name of the applicant is stated to be Bhura Ram son of late Nathu Ram Dushad, village Christian Para, Paneri (a photo copy of which has been retained in records). In view of this confusing position no interim relief can be granted to the applicant in terms of the prayer made in the application. However, it is made clear that the termination of his service vide impugned notice will be subject to the result of this case.

14.5.96

Requisite Review
 28820 to the
 records No. 1060-1063
 dt. 14.5.96

Rev

O.A.66/96

17-6-96

Mr.G.Sarma Addl.C.G.S.C. for the respondents. List on 18-7-96 for written statement and further order.

[Signature]
Member

lm

18-7-96

Learned counsel Mr.J.L.Sarkar for the applicant. Learned Addl.C.G.S.C. Mr.G.Sarma for the respondents.

Written statement has been submitted. Copy of the same may be served to the counsel of the applicant.

List for hearing on 14-8-96.

[Signature]
Member

lm

14-8-96

Learned counsel Mr.M.Chanda for the applicant. Written statement has been submitted. List for hearing on 11-9-96.

[Signature]
Member

lm

16.9.96

Mr. M.Chanda for the applicant
Mr. G.Sarma, Addl. C.G.S.C. for the respondents.

List for hearing on 14.10.1996.

[Signature]
Member

trd

[Signature]
16/9

17.7-96

W/S filed on behalf of R. No. 1 - U. at for 21-40.

[Signature]

6.9.96

Notice duly served on receipt No. 2

Ben

[Signature]
14/8

(4)

O.A. No. 66 of 1996

14.10.96

Mr. M.Chanda for the applicant.

List for hearing on 2.12.1996.

ba
Member

nkm
15/10

28.5.97.

1) Written statement has been filed 11.4.97

2) NO rejoinder submitted

3) Memo of appearance not yet filed

Let the case be listed on 29.5.97 for further orders.

ba
Member

SB
Vice-Chairman

sh
28/5

trd
19/4

29.5.97

28-5-97

Memo of appearance filed by Mr. G. Sarma Addl. C.G.S.C.

Mr M. Chanda, learned counsel for the applicant, submits that the applicant wants to withdraw the application because of certain technical defects. Mr G. Sarma, learned Addl. C.G.S.C., has no objection. Prayer allowed.

The case is disposed of on withdrawal.

EH

ba
Member

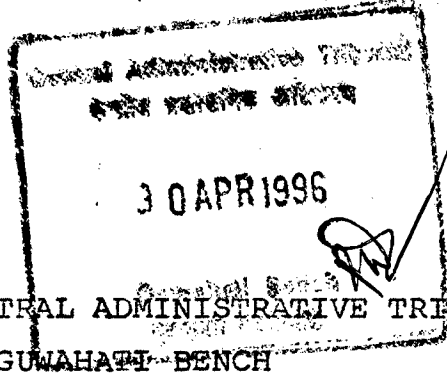
SB
Vice-Chairman

nkm
30/5

9.6.97

Copy of the order has been sent to the D/Sec. for issuing the same to the parties.

sh
9/6 98 received
DENOS 2130 to 2135
9/16.6.97
sh



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

An Application under Section 19 of the Administrative
Tribunals Act, 1985.

Filed by the
Petitioner through
30-4-96 M. Under ADV

O.A. No. 66 /96

Sri Gora Ram

-versus-

Union of India & Ors.

I N D E X

Sl. No.	Annexure	Particulars	Page No.
1	-	Application	1-12
2	-	Verification	13
3	1	Judgement & Order passed in O.A. No. 264/93 on	
4	2	Affidavit dt.2.11.95	
5	3	Temporary Pass Certificate	
6	4	Termination notice dated 25.3.96	- 20
7	5	- - - -	- 21-40

Date :

Filed By

M. Under

Advocate

L. T. ...

1. Particulars of the Applicant

Sri Gora Ram,

Son of late Nathuni Ram Dushad

EME Battelion, Changsari,

District-Kamrup

Assam

..... Applicant

2. Particulars of the Respondents

1. Union of India

through the Secretary, Govt. of India

Ministry of Defence,

New Delhi

2. The Additional Director General of Staff Duties
(SDGE), General Staff Branch, Army Headquarters,
DHG, Post Office-New Delhi.

3. The Administrative Commandant,

Purv Kaman, Mukhyalaya

Headquarters,

Eastern Region Command,

Fort William

Calcutta-700021

4. The Administrative Commandant,

Station Headquarter,

Rangiya

C/o 99 APO

..... Respondents

Contd....P/3



3. Particulars for which this application is made.

This application is made against the order of termination issued under letter No. 3004/1/CC-3/Q dated 25.3.96 issued the officiating Administrative Commandant, Station Headquarter, Rangiya, C/o 99 APO and also for a prayer for regularisation his service by relaxing his in terms of the Judgement and order passed by the Hon'ble Central Administrative Tribunal Guwahati Bench, Guwahati in O.A. No. 264/93.

4. Limitation

The applicant begs to state that this application is filed within the prescribed limitation period under Section 21 of the Administrative Tribunals Act, 1985.

5. Jurisdiction of the Tribunal

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

6. Facts of the case

6.1 That the applicant is a citizen of India as such he is entitled to all the rights and privileges guaranteed by the Constitution of India. The applicant is presently working as Conservancy Safaiwala at Shangsari Camp, under the control of Administrative Commandant, Station Headquarter, Rangiya.

6.2 That the applicant initially entered into the service as casual worker to the post of Gardener in the Hathigarh

Contd...P/3



Brig. in the year 1970, C/o 99 APO under the Government of India, Ministry of Defence. The applicant since 1970 continuously working as casual worker in the Hathigarh Brig. However the Hathigarh Brig. was shifted to Rangia under the control of Administrative Commandant, Station Headquarter, Rangiya and since then the applicant after shifting of Hathigarh brig. continuously serving as Gardener in the said Brig. However the said Brig. again shifted from Rangiya to Changsari and accordingly the applicant was transferred alongwith the Brig. to Changsari and thereafter the said Brig. shefted from Changsari to Misamari and the present applicant also accordingly transferred and post at Misamari alongwith the Brig. but after working there at Misamari for about 3 months the applicant was directed to report back to Changsari Unit which is under the control of Administrative Commandant, Station Headquarter, Rangiya accordingly your applicant reported for duty at Changsari and resumed his duty as Conservancy Safaiwala since 1989 under the Administrative Commandant, Station Headquarter, Rangiya. Be it stated that the applicant being illeterate the date and year of the shifting of Brig. from Hathigarh to Rangiya and Rangiya to Changsari could not be indicated. The applicant is presently serving as Conservancy Safaiwala under the Administrative Commandant, Station Headquarter, Rangiya in the Changsari Camp.

6.3 That your applicant further begs to state that at the time of his initial engagement as casual labourer

Contd....P/5


he was 27 years in the year 1970 and since the applicant is serving continuously under the respondents therefore he is to be regularised ~~by relaxing the age~~ and also entitled to age relaxation in accordance with the existing provision of relaxation made by the Government of India. Be it stated that as per the existing procedure of age relaxation the applicant is entitled relaxation of age to the extent he is serving the department as casual worker since 1970.

6.4 That your applicant had filed an Original Application along with other Conservancy Safaiwalas before this Hon'ble Tribunal which was registered as O.A. 264/93 (Nipen Ch. Das & Ors. Vs. Union of India & Ors). The case of the applicant was contsted by the present respondents and the case was finally dedided on _____ whereby the Hon'ble Tribunal was pleased to direct the respondents to consider the regularisation of the applicants considering their long past services and also pleased to direct the respondents to pay minimum of the pay scale from the date of filing of the O.A. The respondents in the O.A. 264/93 did not raise any point of over age therefore the respondents are now barred to aise the question of over age in respect of the presen applicant and specially the judgement and order dated _____ passed in favour of the applicants by this Hon'ble Tribunal whereby it was decided that the applicants including the present applicant are entitled to be regularised as conservancy safaiwala since the nature of work is of permanene nature.

A copy of the judgement and Order dated _____ passed in O.A. No1 264/93 is annexed as Annexure-1.

6.5 That your applicant begs to state that the Administrative Commandant, Station Headquarter, Rangiya vide his letter No. 3004/1/CC-1/Q dated 27.10.95 directed the applicant to submit documents/records. In the said letter dated 27.10.95 it was directed to submit documents/records as regard the date of birth and also directed to furnish local address counter signed by the Block Development Officer. The applicant in reply to the letter dated 27.10.95 submitted the documents namely Affidavit stating that his date of birth as 2.1.1950 to the Administrative Commandant, Station Headquarter, Rangiya. In this connection it may be stated that since he is serving as casual labourer at Hathigarh Brig. w.e.f. 1970 and thereafter he is continuously working under the said Brig. and shifted from Hathigarh Brig to Rangiya Brig, Changsari, and Misamari from time to time and finally he was directed to report back to Changsari Unit under the Administrative Commandant, Rangiya. Therefore the applicant prays for ~~relaxation~~ relaxation of his age as he is serving for long term under the Govt. of India, Ministry of Defence and it may also be stated that as the applicant originally hails from the Chhapra District of Bihar and thereafter he is a permanent resident of Purnia Hathigarh, Bhutiamari Gaon Dist. Darrang. The applicant altogether rendered his services for 26 years continuously under the Government of India, Ministry of Defence in different wings of the Hathigarh Brig. as well as in the Station Headquarter, Rangiya. Therefore he is entitled to age relaxation to the extent of 26 years since he has initially entered into service in the year 1970.

Contd....P/7



Temporary

A copy of the Affidavit as well as the ~~documentary~~ ^{Temporary} pass issued in respect of the applicant which is valid up to 31.12.1997 is also enclosed as ~~documents for~~ Annexure 2 and 3 for perusal of the Hon'ble Tribunal.

6.6 That the applicant begs to state that he had also submitted MOBC~~C~~ (More other backward classes) certificate which was countersigned by the Deputy Commissioner, Mangoldoi and as per the Central Govt. Scheme the MOBC candidates are entitled to 3 years age relaxation from the normal age of 25 years for Central Government service. Therefore the applicant is well within the age limit as per the Central provision laid down for relaxation of age for relaxation of his service as ^{but} Conservancy Safaiwala ~~at~~/the Station Headquarter, Rangiya did not take the services rendered by the applicant in the Hathigarh Brig. for consideration for the purpose of age relaxation whereas the Central Government rule is very much clear in this respect. The relevant provision for relaxation of age for appointment mentioned in Chapter 13 of Swamys Complete Manual on Establishment And Administration for Central Government office is quoted below :

6

Category of persons to whom Age concession is admissible	Categories of posts to which the Age concessions is admissible	Extent of Age concessions
(xii) Casual labourers for absorption in regular establishment in Group 'D'.		Period spent as casual labourer. Broken period of service rendered as a casual labourer may also be taken into account for the purpose of age relaxation for appointment in

1	2	3
<p style="text-align: right;">regular establishment, provided that one stretch of such service is for more than six months.</p>		

Therefore, from the above provision it is quite clear that the applicant is entitled to relaxation of age to the extent he has rendered service as Conservancy Safaiwalay under the Govt. of India, Ministry of Defence and moreover he is also entitled further relaxation of age in terms of Central Government provision for relaxation of age for MOBC for a period of 3 years. In view of the above scheme the applicant is well within the age limit for relaxation of age and therefore the impugned notice of termination dated 25.3.96 is liable to be set aside as the same is illegal.

6.7 That your applicant begs to state that the Administrative Commandant, Station Headquarter, Rangiya most surprisingly issued a notice under letter No. 3004/1/CC-3/Q dated 25.3.96 whereby the services of the applicant proposed to be terminated with effect from 1.5.96 or before but till date the applicant is in service and the applicant apprehends that in terms of the impugned notice dated 25.3.96 the service of the applicant is going to be terminated with effect from 1.5.96. Be it stated that as stated above the applicant is well within the age limit for ~~relaxation~~ ^{regularisation} of his service and in view of the Judgement and Order passed in O.A. No. 264/93 the service of the applicant cannot be terminated and moreover the respondents did not raise any question of over age in respect of the present applicant in

Contd...P/9



2. That the respondents be directed to regularise the service of the applicant after granting necessary age relaxation in terms of the provision laid down for the Central Govt. casual employees for regular appointment.

3. That the respondents be directed to regularise the applicant to the post of Conservancy Safaiwalay in terms of the Judgement and Order

~~passed in O.A. No. 264/93.~~

passed in O.A. No. 264/93, dt. 5.9.95

4. To pass any other order or orders as your Lordship may fit and proper under the facts and circumstances stated above.


5. Costs of the case.

The above reliefs are prayed on the following amongst other-

-G R O U N D S-

1. For that the question of overage not raised by the respondents in the O.A. 264/93 and hence they are barred to raise such question after the judgement and order passed in O.A. No.264/93.
2. For that the applicant is entitled to age relaxation to the extent as he has rendered service as casual labourer under the Govt. of India, Ministry of Defence with effect from 1970 to till date.

Contd...P/11



3. For that the applicant is also entitled to age relaxation in terms of his long service of 26 years as casual labourer under Ministry of Defence, Govt. of India.
4. For that the applicant is also entitled to age relaxation in terms of Judgement and Order passed in O.A. 204/95 as the similar question is decided in the O.A. 204/95.

8. Interim Relief

During the pendency of this application the applicant prays for the following interim reliefs :

1. During the pendency of this case the respondents be directed that the impugned notice issued in letter No. 3004/1/CC-3/Q ~~dated 25.3.96~~ dated 25.3.96 be ~~retained~~ stayed till final disposal of this application.
2. That the respondents also be directed to allow to continue the service of the applicant as casual ~~labour~~ conservancy safaiwala in the station headquarter, Rangiya at EME battelion at Changsari till final disposal of this application.

The above reliefs are prayed on the ground explained in paragraph 7 of this application.

Contd...P/12



9. That the applicant has not filed any other application in any other Court/Tribunal.

10. That the applicant declares that all the remedy available have been exhausted by ~~him~~ ^{him.} This Hon'ble Tribunal is the only remedy.

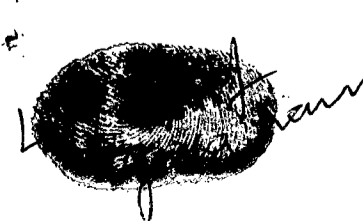
11. Particulars of Postal Order.

Postal Order No. : 311 276.
Date of Issue : 8-1-96.
Issued from : G.P.O., Guwahati
Payable at : G.P.O., Guwahati

12. An Index of documents is enclosed.

13. Documents enclosed

As per Index



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

I, Sri Gora Ram, Son of late Nathuni Ram Dushad
Working as Conservancy Safaiwala in EME Battelion,
Changsari, District - Kamrup, Assam do hereby declare
that the statements made in this application are true
to my knowledge and belief and I have not suppressed
any material facts.

And I sign this verification on this the 30th day of
April, 1996 at Guwahati.

Date : 30.4.96.



Signature/Thumb Impression

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH. 11

Original Application No. 264 of 1993.

Date of Order : This the 5th Day of September, 1995.

Justice Shri M.G. Chaudhari, Vice-Chairman.

Shri G.L. Sanglyine, Member (Administrative).

1. Shri Nripen Das
2. Md Khalil Ali
3. Shri Sunil Das,
4. Shri Gora Ram,
5. Shri Umesh Das,
6. Shri Bhairo Lohar

... Applicants.

By Advocate Shri J.L. Sarkar.

- Versus -

1. Union of India
through Secretary to the Govt. of India,
Ministry of Defence, New Delhi.
2. Additional Director General of
Staff Duties (SDGB),
General Staff Branch, Army Headquarters,
DHG, New Delhi-1100011.
3. Administrative Commandant,
Purv Kaman Mukhyalaya,
Head Quarters, Eastern Command,
Fort William, Calcutta- 700 021.
4. Administrative Commandants,
Station Headquarters, Rangia,
C/O 99 A.P.O.

By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.



ORDER

CHAUDHARI J. (V.C)

The six applicants who are employed as Conservancy/Safaiwalas under the Station Headquarter, Rangiya (Assam) on different dates since 1982 onwards on daily wage basis at the rate of Rs. 30.20 per working day on ^{no} work no pay basis, claim that having regard to the length of service for which they have been engaged on casual basis they have become eligible for being regularised but the respondents not having done so

*Admitted
Choudhury
J. (V.C)*

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2
injustice is done to them and therefore they have approached the Tribunal by the instant O.A. seeking a direction to the respondents to regularise their services with all consequential service benefits including monetary benefits from the respective dates of engagement fixing pay at the minimum of the scale and not to terminate their services till regularisation.

2. The respondents contend that the services of the applicants cannot be regularised as regular posts are not authorised to the field station and they are also not entitled to regular salary and other allowances as they were engaged purely on daily wage basis depending on the actual requirement on ground and they were removed from services when not required subject to number of field units remaining in the field station. They further contend that although the higher authorities have issued administrative instructions regarding regularisation

~~of Conservancy Safaiwalas~~ subject to fulfilling the conditions

✓ ^{and} that they were employed against regular posts which were created prior to 3.1.1984 based on the recommendations of a Station Board of Officers but since Rangiya and other stations are not authorised any regular posts of Conservancy Safaiwalas being field station, the applicants are not entitled to be regularised. Thus according to the respondents since the employment of the applicants is not of permanent nature at Rangiya the applicants are not entitled to get the reliefs sought by them. According to them the applicants have been engaged on Stop gap basis and are purely temporary and that the requirement of the job decreases as and when field unit is left out of the field stations. Some of those posts ceased to exist resulting in disengagement of the casual employees like the applicants. The respondents have stated that the services of the applicants were no longer required due to

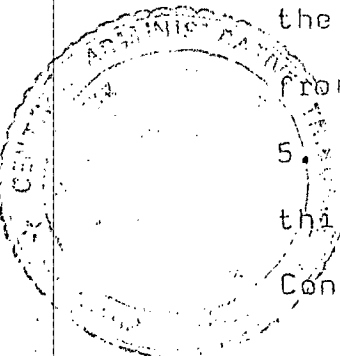
13
21

moving out of field units and they were therefore disengaged.

3. It however appears from the application that on the date on which it was filed i.e. 20.12.93 the applicants were engaged and by interim order dated 22.12.95 the Respondents were directed not to disturb their engagement as casual employees. The applicants therefore appear to have continued to be engaged till now.

4. Mr Sarkar, the learned counsel for the applicants with due amount of justification submitted that having regard to the welfare policy of the State and the view expressed by the Hon'ble Supreme Court time and again in several cases the respondents cannot avoid to regularise the services of the applicants on the ground that there are no posts since factually at all the times the services of the applicants have been needed. Our attention is pointedly drawn to the observations of the Supreme Court in Rajesh Kumar Soni & Ors. vs. Ministry of Environment & Forest and Wild Life & Ors. (1992) 21 ATC 401 wherein regularisation was directed in respect of employees who had been working for more than 4 to 5 years as that gave the impression that there was regular need for the employees. This exactly is the submission of Mr Sarkar as noted above. Our attention has also been drawn to the decision of the Supreme Court in Rattan Lal & Ors. vs. Lt. Governors & Ors. (1992) 21 ATC 402 in which also the Supreme Court was pleased to direct the Delhi Administration to absorb the casual employees under the scheme for absorption of casual labourers made effective from October, 1988.

5. Mr Sarkar places strong reliance upon the order of this Tribunal in O.A.228/93 dated 28.7.94 relating to similar Conservancy staff as the applicants at the same Headquarter,



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namely, Rangiya under the present respondents. It was held that the break in service of those applicants was artificial and that cannot be encouraged being disadvantageous to the casual labourers and was likely to defeat their rights and having regard to the continuity of their service and the principles and guidelines for regularisation and fixation of minimum pay scale enunciated by the Supreme Court in various decisions the applicants (in that cases) were entitled for regularisation but only after obtaining sanction for the posts. The respondents were however, directed to pay those applicants the minimum of the appropriate pay scale of class IV category as Safaiwalas. The respondents were consequently directed to make communication with the Headquarter to obtain sanction for regularisation of those applicants within a period of six months and not to terminate their services till they were regularised and in the meantime to pay them the minimum of the pay scale. The respondents accordingly moved for obtaining sanction and Mr Sarkar now states that according to his instructions some of those applicants and some other Safaiwalas have been regularised. According to the learned counsel therefore similar course may be directed to be adopted in respect of present applicants.

6. The facts of the instant case reveal that the services of the applicants are being availed ever since 1983 onwards. Having regard to the preponderance of judicial opinion and the welfare policy of the State we are obliged to take the view that the applicants deserve to be considered for regularisation. That however cannot be directed straight away unless there are posts available against which their regularisation can be considered. The posts against which the applicants are engaged are not regular sanctioned posts as stated in the written statement. Even in the order in O.A.

228/93 it was noticed that the regularisation was dependent upon sanction of the posts. It is therefore clear that unless posts are sanctioned by the Government of India, Ministry of Defence, it would not be possible to regularise the applicants. We do not think that it lies within our province to direct the Government of India to sanction the posts under all circumstances. However, even though the power is exclusively vested with the Central Government to do so, we have no reason to believe that it will not be exercised suitably having regard to the overall circumstances particularly the view expressed by the Hon'ble Supreme Court from time to time and the decision in O.A.228/93 while considering the question of sanctioning further posts against which the applicants can be regularised.

7. The Government of India have framed a Scheme for grant of temporary status and Regularisation of casual workers namely, "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India 1993" for persons on daily wages basis in Central Government offices. We have no reason to think that it is not applicable to the workers under the respondents. The applicants therefore ought to be considered thereunder. If the scheme is not applicable it is high time that it is extended to workers under the respondents or similar scheme is prepared for them.

8. Mr A.K.Choudhury, the learned Addl.C.G.S.C submitted on behalf of the respondents that the Army Headquarters/Ministry of Defence have not found it essential to sanction regular posts at the field station, Rangiya and in the absence of such sanction the question of regularisation of the applicants does not arise. He further submitted that as the engagement of the applicants is on daily wage basis they cannot claim

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to be paid at the pay scale of class IV category. We have dealt with the first aspect in the foregoing discussion. On the second aspect we follow the earlier decision (in O.A. 228/93) and hold that on equitable grounds the applicants should be paid wages at the minimum of the pay-scale of Grade IV employee and if sanction be necessary that should be accorded early.

9. In the result following order is passed :

i) The respondents are directed that if the posts of Conservancy/Safaiwalas have been sanctioned by this time for Station Headquarter, Rangiya then the regularisation of the applicants be done in accordance with the rules against those posts.

ii) If there are no sanctioned posts then we direct the respondents No.3 and 4 to move the respondents 1 and 2 for sanctioning the posts of Safaiwalas at Rangiya Station Headquarter to facilitate the regularisation of the applicants.

iii) Alternatively we direct that the benefit of 1993 Scheme (mentioned above) may be considered to be extended to the applicants or steps may be taken to prepare a similar scheme for the employees like applicants serving under the respondents if the said scheme is not found applicable ^{to them} and extend the benefit of the scheme as may ^{be} framed to the applicants.

iv) We recommend to the respondents to take the aforesaid steps as early as ^{practicable} possible and extend the benefit thereof to the applicants ^{to the extent possible}. It is hoped that the respondents will take the aforesaid steps within a period of six months from the date of communication of this order and deal with the question of regularisation of the applicants in the light of the same.

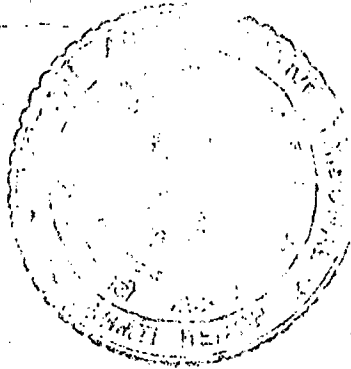
v) In order to enable the respondents to consider taking the above steps the interim order dated 22.12.93 is hereby extended till 31.3.1996.

vi) The respondents are also directed to pay the minimum of pay scale to the applicants from the date of filing of the O.A. i.e. 20.12.93 till date and continue to pay the same during the currency of the interim order. Arrears from 9.12.93 of the difference of pay upto the end of September, 1995 to be paid and future payment to be continued from 1st October 1995 at the rate of minimum of the pay scale for Class-IV category of Safaiwalas.

O.A. is disposed of in terms of the aforesaid order.
No order as to costs.

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



Certified to be true Copy

प्रमाणित प्रतिलिपि

[Signature]
20/1/96

COURT OFFICER

न्यायालय अधिकारी

Central Administrative Tribunal

केन्द्रिय प्रशासनिक अदालत

Guwahati Bench, Guwahati-5

गुवाहाटी न्यायालय, गुवाहाटी-5

Annexure-2

IN THE COURT OF THE MAGISTRATE, MANGALDAI

A F F I D A V I T

I, Shri Goram Dusad son of Late Bhageloram Dusad, permanent resident of village Batiamari, P.S. Panery, Mouza Harisinga, Dist. Darrang (Assam), do hereby solemnly affirm and state

- (1) That I am a permanent resident of village Batiamari, P.S. Panery Dist. Darrang (Assam.)
- (2) That my actual date of birth is 2.1.1950.
- (3) That this affidavit is required for the purpose of submitting before the authority concerned in order to substantiate the fact that my actual date of brith is 2.1.1950.
- (4) That thas affidavit is required for the purpose of submitting before the authority concerned in order to substantiate the fact that I am a permanent resident of the above noted adress for obtaining P.R.C. certificate.

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

I, Shri Gira Ram Dusad, do hereby solemnly affirm and state that the statements made by me the above paras are true to the best of my knowledge and belief and I sign this verification on this the 2nd day of Nov/95 at Mangaldai.

DEPONENT

Thumb Impression

*Attested
Chhanda
Adv*

Annexure-3

In lieu of IAFF-3051

TEMPORARY PASS-CILILIANS

Name in full Sri Bhura Ram ✓ Pass No. 4 (Four)

Father's Name Nathu Ram DVshad ✓ State Assam

Local adress

Vill Christian Para

P.O. Paneri

To -do-

Photo

PS Paneri

Signature of issuing authority
with date

Teh Mangaldai

Dist Darrang (Assam)

- Identification marks :
1. A scar on the left eye brow.
 2. A scar on the upper part of the 2" from the knee up.

Valid upto 31 Dec. 1977

Renewed upto

Height 5' 6" Age 35 years

Employed as Gardener

!!

SERVANTS PASS INSTRUCTIONS

1. This pass is not transferable and is to be produced on demand.
2. In the event of its loss, a report will immediately be made to OC 245 Fd Wksp Coy EME (to be filled up by issuing authority).
3. This pass is the property of the Govt. of India and is to be ~~Renewed up~~ returned immediately the servant ceased to employment.

Renewed upto 31st Dec. 1978

Sd/- Illegibae

renewed upto 31 Dec. 79

Sd/- Illegible

*Attested
Bhura
DV*

Annexure-4

3004/1/CC-3/Q

25 Mr 96

Shri Goraram Dusad
Vill Batiamari
P.O. Panery
Dist-Darranga (Assam)

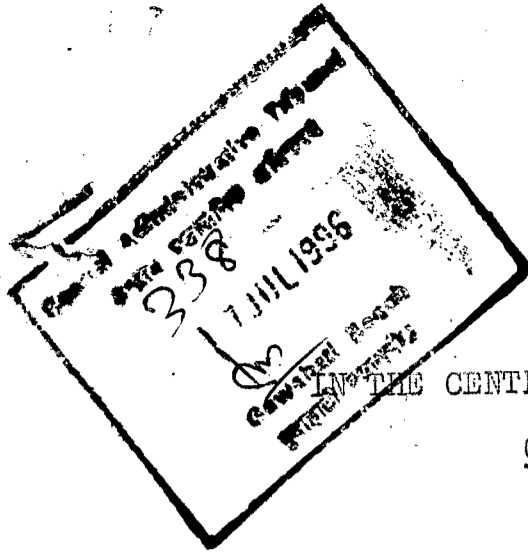
NOTICE

1. It is intimated that you have not fulfilled the age criteria for regular appointment as per terms and conditions prescribed for the post.
2. In view of the above, you are hereby noticed that your services will be terminated with effect from 01. May 96 or before.

Sd/- Dharamveer Singh
Major
Offg. Admn. Comdt.
for Sta Cdr

*Attested
Chandra
ADV.*





21

File by
Gopal Samanta
Additional Counsel
Secty. Standing Council,
Central Administrative Tribunal
Guwahati Bench
17.7.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

In the matter of :

O.A.No. 66/96

Shri Gora Ram ... Applicant.
-Vs-
Union of India & Ors. ... Respondents.

-AND-

In the matter of :

Written Statement on behalf of
Respondent No.1 to 4.

I, Colonel Jaipal Singh Tomar, Administrative
Commandant, Station Headquarters, Rangiya do hereby
solemnly affirm and declare as follows :-

1. That the respondents are in receipt of the
notice from this Hon'ble Tribunal and as per directions
I submit the written statement on behalf of all the
respondents and say categorically that save and except
what is admitted in this written statement, rest may be
treated as total denial by the respondents. I further
say

say that I am authorised to file the written statement which will be common one for the respondent no.1 to 4.

2. That with regard to the contents made in paragraph 1 of the application, the Respondents beg to state that name of the applicant's father registered at this Headquarters is Bhageloram Dusad, permanent resident of village Batiamari, P.S. Panery, Mouza Harisinga in the District of Darrang, Assam and not as mentioned in this para of the application. Hence the contention of the applicant appears to be incorrect.

In this regard a copy of Affidavit submitted by the applicant and entry in Register maintained at this Station Headquarters are annexed herewith and marked as Annexure R-1 and Annexure R-2 respectively.

3. That with regard to the contents made in paragraphs 2,3,4,5,6 and 6.1 of the application, the Respondents beg to state that they have nothing to comment.

4. That with regard to the contents made in paragraph 6.2 of the application, the Respondents beg to state that Station Headquarters, Rangia was raised in the year 1979. It is incorrect to say that the applicant was working as casual worker with Hathigorh Brigade under the control of Administrative Commandant, Rangiya. It is stated that Hathigorh Brigade was never under the control of Administrative Commandant, Rangiya since it's raising.

Contd.....

Hathigorh brigade has separate Command and control structures in this respect and they have been dealing under the separate authorities. This Headquarter is also not aware of his shifting from Hathigorh to Rangiya, Rangiya to Changsari, Changsari to Misamari. Hence, contention of the applicant as made in [] this paragraph of the application is totally incorrect and misleading, since the Station Headquarters Rangiya was raised only in the year 1979.

Copy of letter No.A/30533/SD 2/71-C/D(GS-I) dated 10th January,1979 issued by the Govt. of India, Ministry of Defence, New Delhi regarding raising of Station Headquarters Rangiya is annexed herewith and the same is marked as Annexure R-3.

5. That with regard to the contents made in paragraph 6.3 of the application, the respondents beg to state that the applicant was not 27 years old in the year 1970. As per the statement made in Affidavit by the applicant before the Magistrate, Mangaldai his actual date of birth is 2-1-1950. According to calculation he was 20 years old at the time of his initial engagement in the year 1970 and not 27 years as claimed by the applicant. Therefore the Hon'ble Tribunal be pleased to verify his correct particulars and date of birth. As stated in para 4 above that Station Headquarters, Rangia was raised in the year 1979, and that this Station Headquarters holds no records about his service at Hathigorh Brigade....

Brigade nor any details of his service under the respondents till May 1989. As per the Records held with this Station Headquarters, the applicant was employed/engaged in the Year June 1989 as a casual daily wage basis. As per judgement and order passed by the Hon'ble Tribunal in O.A.No.264/93 the applicants have been given full age relaxation as per existing rules on the subject. Besides giving full age relaxation as per the policy of the govt. the applicant was still found to be overaged. Hence the services of the applicant can not be regularised.

6. That with regard to the contents made in paragraph 6.4 of the application, the Respondents beg to state that in order dated 5th September, 1995 passed by the Hon'ble Tribunal in O.A.No.264/93, the Respondents are directed that if the post of Conservancy Safaiwalas have been sanctioned by this time for Station Headquarter, Bangiya then the regularisation of the applicant be done in accordance with the rules against those posts. Accordingly the respondents has taken the decision and services of all the eligible Safaiwalas have been regularised in accordance with rules except the present applicant who was found to be over age inspite of giving full age relaxation as per Policy of Govt. of India. It is further stated that the applicant did not raise any apeculation about his past service in O.A.No.264/93 nor this Headquarters was informed about the same, therefore, the respondents are not barred to regularise the

the services of the applicant. It is re-iterated that the applicant has been given full age relaxation wherever it was applicable.

A copy of the judgement and order dated 5th September 1995 passed in O.A.No.264/93 is annexed herewith and marked as Annexure R-4.

7. That with regard to the contents made in paragraph 6.5 of the application, the respondents beg to state that vide letter No.3004/1/CC-1/Q dated 27-10-95, the applicant was directed to submit documents in original and one photostat copy for completion of service documents, but administrative commandant has never mentioned that local address should be countersigned by the Block Development Officer. The correct wording of the letter is that "certificate on local address and permanent address from DO's/SDO(C)'s/BDO's office be submitted". In the reply of letter dated 27-10-95, the applicant submitted the affidavit in regard to his age and address concerned. The same was accepted in principle. It is once again highlighted that Govt. of India, Ministry of Defence letter dated 10th January 1979 is a proof/evidence that Station Headquarters Rangiya was raised in the year 1979(Annexure R-3). The details of various move of Hathigorh Brigade on various occasions is not known to this Headquarters since the Brigade does not come under the purview of this Headquarters on such matters.

Contd.....

This Headquarters holds no details regarding his service at Hathigorh Brigade and hence, it is not possible to say that applicant was serving continuously in Hathigorh Brigade since 1970. As per temporary pass issued by Hathigorh Brigade, the name of the applicant is mentioned as 'Sri Bhura Ram, s/o Shri Nathu Ram Dushad' but as per the records maintained at the Station Headquarters, Rangiya the name of the applicant is given as 'Gora Ram s/o Shri Bhageloram Dusad'. Due to the contrary name given by the applicant in different Headquarters, it is not possible to believe that the applicant was serving with Hathigorh Brigade since 1970. Also as per the validity of pass, casual worker Bhuraram was retrenched from service after December, 1977. The applicant is not entitled to any age relaxation since 1970 nor there is any provision on the subject for giving further age relaxation. The applicant was employed at the Station Headquarter, Rangia in the year January 1989 in the post of Casual Conservancy Safaiwalason daily wages basis for which they have been paid daily narrick rates as fixed by the Regional Labour Commissioner of Assam.

8. That with regard to the contents made in paragraph 6.6 of the application, the Respondents beg to state that the Station Headquarter, Rangiya is well aware about the MOBC age relaxation, and the applicant has been given full age relaxation wherever applicable.

Contd.....

It can be seen from the undermentioned table, the applicant is still overage inspite of giving full age relaxation as quoted in Chapter 13 of Swamy's Complete Manual of Establishment and Administration for Central Government Office :-

<u>Name of the applicant</u>	<u>Date of Birth</u>	<u>Date of initial apptt.</u>	<u>Age relaxation given</u>	<u>Age after giving relaxation</u>
Sri Gora Ram	02-01-50	01-06-89	6 years 3 months + 3 years. (period expended as Casual Labour + MOBC age relaxation)	36 years 04 months & 29 days (Age calculated from the date of judgement i.e 05-09-95)

In view of the above, it is incorrect to say that the applicant is well within the age limit. The Administrative Commandant, Rangiya has given full age relaxation as per existing rules on the subject since June 1989 (i.e. his initial employment at this Station Headquarters).

Inspite of giving full age relaxation, the applicant is still found to be overage and no further provisions are existing for giving further age relaxation, hence termination notice issued to the applicant is not at all liable to be set aside as the same is not illegal.

9. That with regard to the contents made in paragraph 6.7 of the application, the respondents beg to state that the termination notice issued to the applicant is well within order and the services of the

applicant.....

-8-

applicant have been terminated with effect from 05 May 1996 as per existing rules on the subject as per judgement and order dated 05th September 1995 passed in O.A.No.164/93. It is again highlighted that as per tabulated table given in para 8 above, it is seen that inspite of giving full age relaxation, the applicant is above 36 years of age which is very much above the limited age prescribed for the said post. Therefore, it is incorrect to say that the applicant is well with the age limits and he is eligible for regularisation.

That with regard to respondent not raising any question of over age in respect of the present applicant in the O.A.No.264/93, it is stated that this Headquarter was holding no records with regard to his age and therefore date of birth could not be verified till such time the Hon 'ble Tribunal passed the order in O.A.No.264/93 filed by Nepen Das, including present applicant, therefore the respondent did not raise any query about the applicant's age. Hence the impugned notice issued to the applicant is not liable to be set aside and quashed.

10. That with regard to the contents made in paragraph 6.8 of the application, the respondents beg to state that the case of present applicant is not identical to that of O.A.No.204/95. The Hon'ble Tribunal's order/judgement passed in O.A.No.264/93 is not similar as for O.A.No.228/93. In O.A. No.264/93, the Hon'ble Tribunal has given clear directions that the regularisation of the.....

of the applicants be done in accordance with the rules against those posts. Hence, it is incorrect to say that the present application is covered by the judgement and order passed in O.A.No.204/95 and 228/93. The present applicant therefore is not eligible for further age relaxation.

11. That with regard to the contents made in paragraph 6.9 of the application, the respondents beg to state that they have nothing to comment.

12. That with regard to the contents made in paragraph 7 of the application regarding relief sought for, the respondents beg to state that the applicant is not entitled to any of the reliefs sought for and as such the application is liable to be dismissed.

13. That with regard to the contents made in paragraph 7 of the application regarding grounds for relief, the respondents beg to state that none of the grounds is maintainable in law as well as facts and as such the contentions made by the applicant are not correct.

14. That with regard to the contents made in paragraph 8 of the application regarding Interim Relief the respondents beg to state that in view of the facts
and.....

and circumstances narrated in paragraphs 2 to 10 above, the applicant is not at all entitled to Interim Relief.

15. That with regard to the contents made in paragraph 9 to 13 of the application, the respondents have nothing to comment.

16. That the present application is ill-conceived of law and mis-conceived of facts and hence liable to be dismissed.

17. That there being no any cause of action, the application is liable to be dismissed.

18. That the present application is without any merit and as such the same is liable to be dismissed outright.

19. That the applicant is not entitled to any relief as the applicant discloses no prima-facie case at all.

20. That the interim order granted by this Hon'ble Tribunal is putting the respondents in great difficulty in discharging their day to day work and pray before this Hon'ble Tribunal to vacate the same.

Contd.....

21. That the respondents crave leave of filing additional written statement if this Hon'ble Tribunal so directs.

22. That this Written Statement is filed bonafide and in the interest of justice.

VERIFICATION

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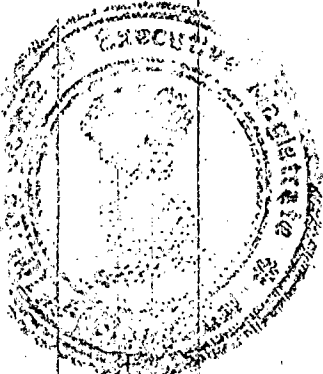
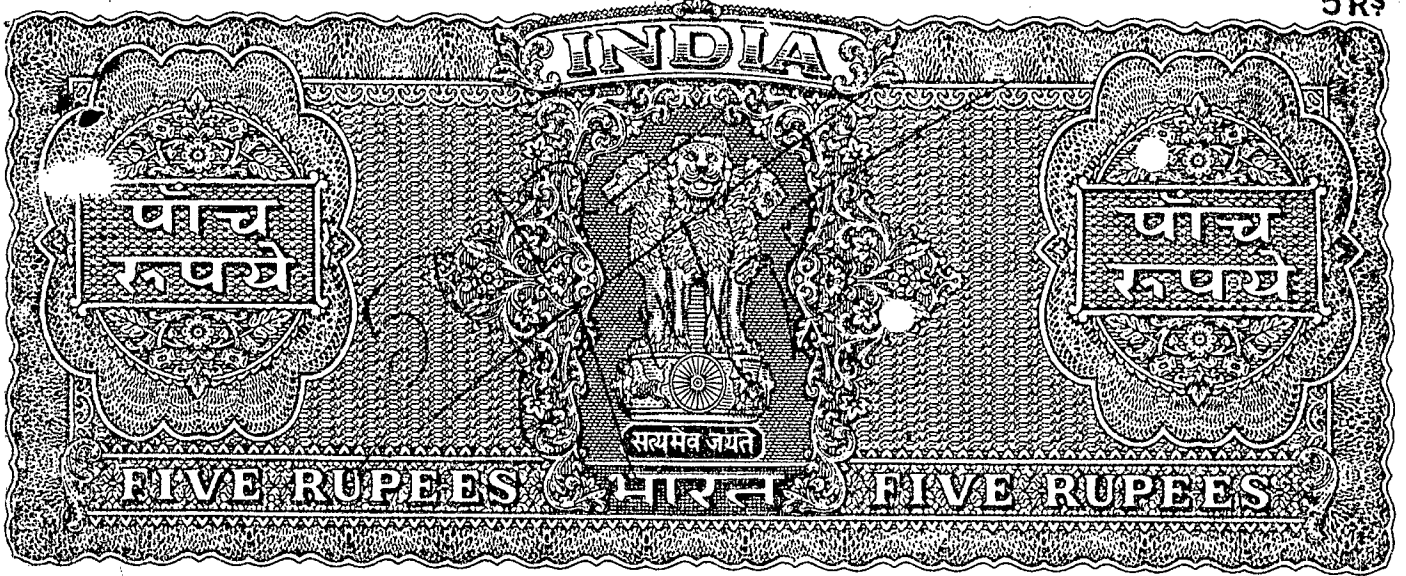
V E R I F I C A T I O N

I, Colonel Jaipal Singh Tomar, Administrative Commandant, Station Headquarters, Rangiya do hereby solemnly affirm and declare that the contents made in paragraph 1 of this Written Statement are true to my knowledge and those made from paragraph 2 to 15 are derived from records which I believe to be true and rest are humble submissions before this Hon'ble Tribunal.

AND I sign this VERIFICATION on this 17 day of July, 1996 at Rangia.



Jaipal Singh Tomar
(J S Tomar)
Colonel
DEPONENT.
Administrative Commandant
प्रशासकीय कमान्डेंट
For Station Commander
ले स्टेशन कमान्डर



IN THE COURT OF THE MAGISTRATE | MANGALDAI.

A F F I D A V I T

I, Shri Gora Ram Dusad son of Late Bhageloram Dusad, permanent resident of village Batiamari, P.S. Panery, Mouza Harisinga, Dist.Darrang (Assam), do hereby solemnly affirm and state -

- (1) That I am a permanent resident of village Batiamari, P.S. Panery, Dist.Darrang (Assam).
- (2) That my actual date of birth is 2/1/1950.
- (3) That this affidavit is required for the purpose of submitting before the authority concerned in order to substantiate the fact that my actual date of birth is 2/1/1950 .

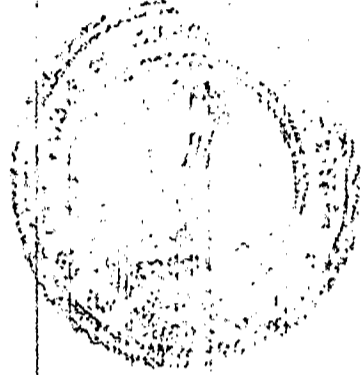
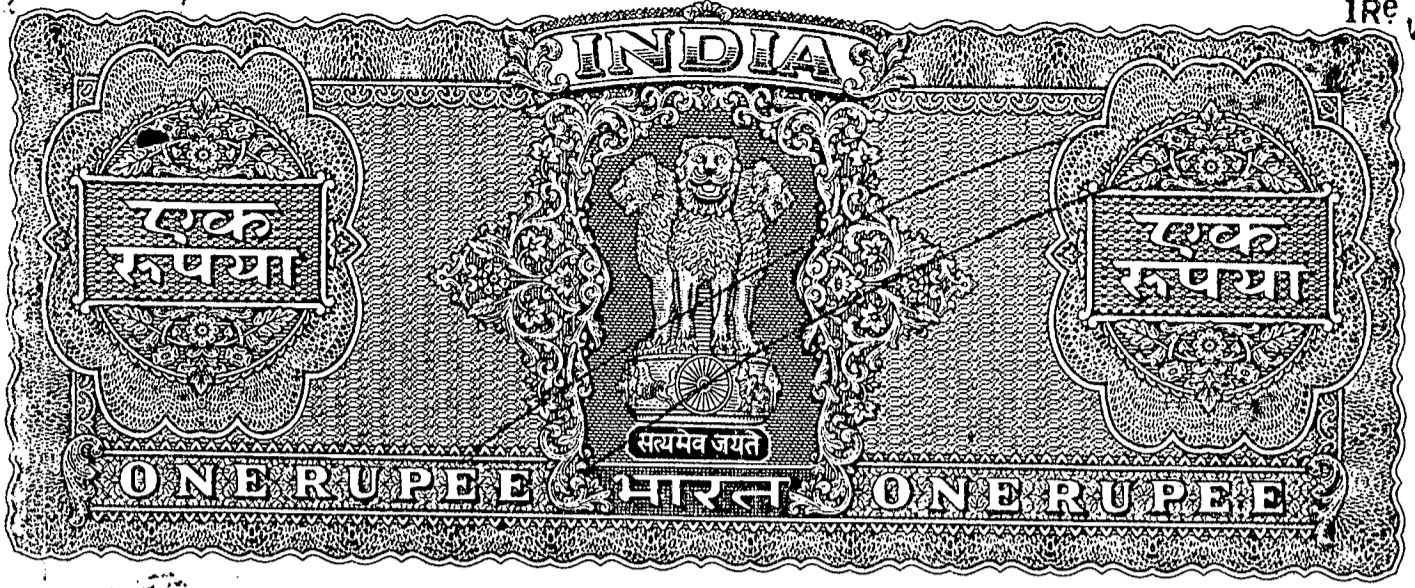
[Handwritten Signature]
 Magistrate
 Mangaldai

1. MURKES
 2. MURKES
 3. MURKES

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VERIFICATION

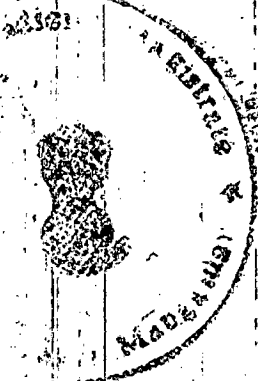
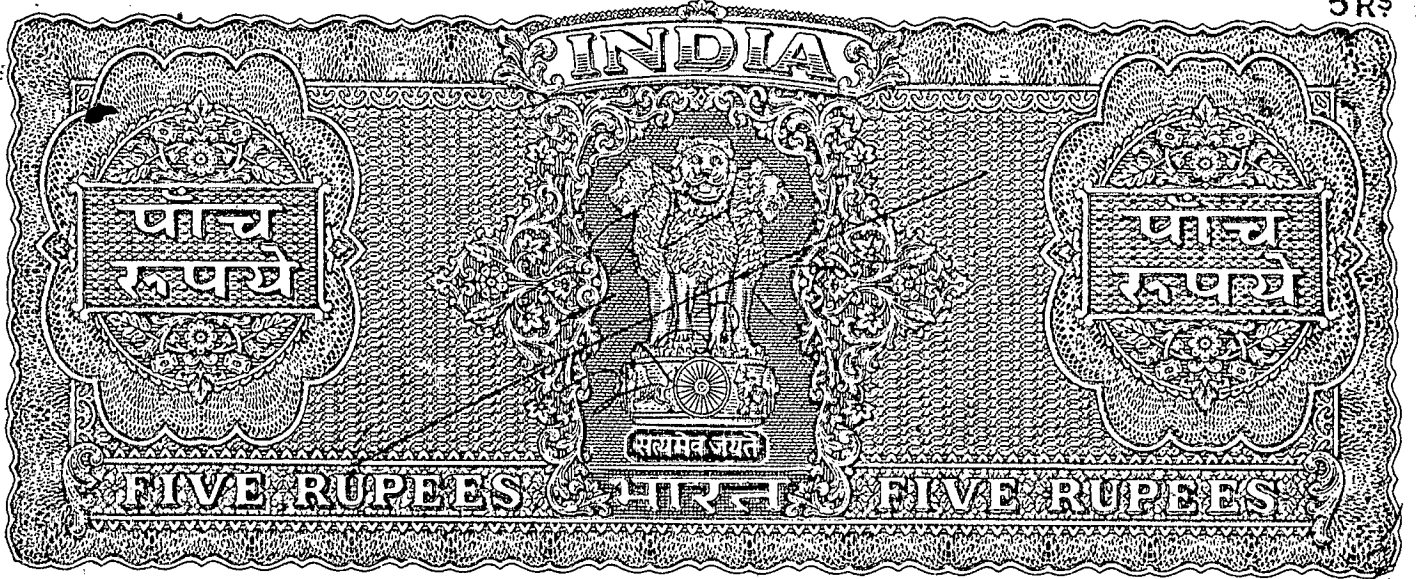
I, Shri Gora Ram Dusad, do hereby solemnly affirm and state that the statements made by me in the above paras are true to the best of my knowledge and belief and I sign this verification this the 6th day of NOV/95 at Mangaldai.

DE PONENT.

Witnessed by me
 Executive Magistrate
 Mangaldai

गोरा राम दुसाद
 6/11/95
 Mangaldai

11/2/95
 (Mangaldai)
 11/2/95



IN THE COURT OF THE MAGISTRATE | MANGALDAI.

A F F I D A V I T

I, Shri Gora Ram Dusad son of Late Bhageloram Dusad, permanent resident of village Batiamari, P.S. Panery, Mouza Harisinga, Dist. Darrang (Assam), do hereby solemnly affirm and state -

- (1) That I am a permanent resident of village Batiamari, P.S. Panery, Dist. Darrang (Assam).
- (2) That I am a Citizen of India by birth.
- (3) That I belonged to recognised MOBC and my sub-caste is Dusad (Ex- I.G.L.).

Contd.....2.....

Handwritten signature and address:
 G. Ram Dusad
 12, E. Lane, Mangaldai

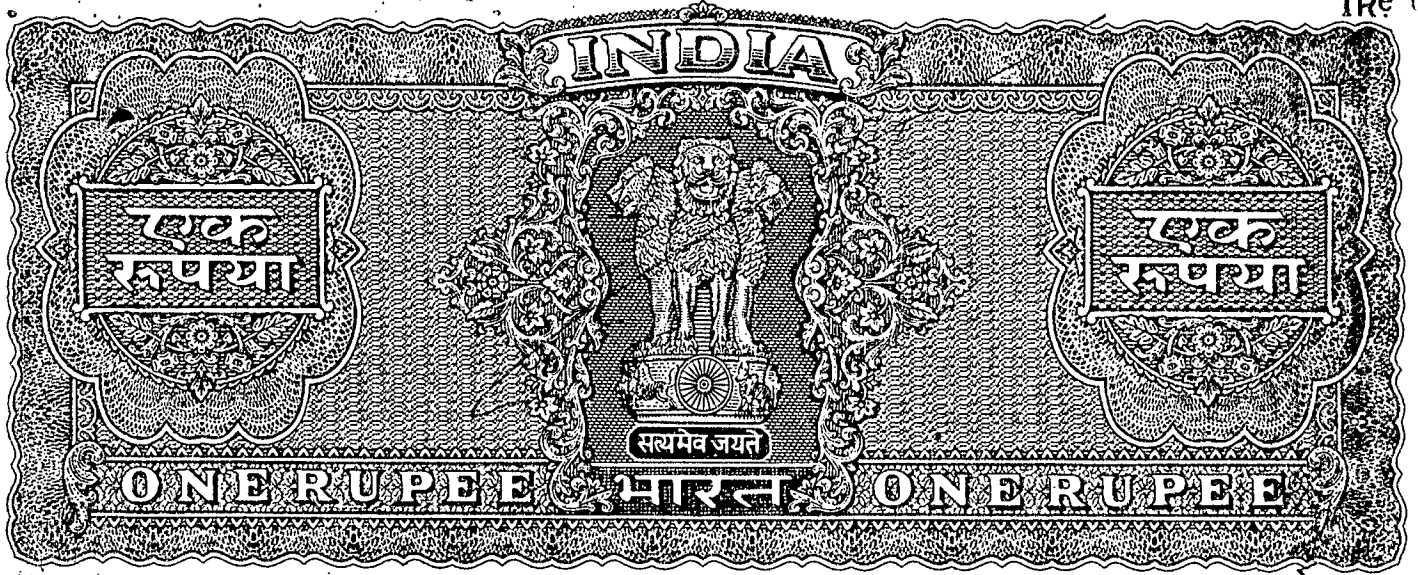
Vertical handwritten text on the right margin:
 12/11/50
 G. Ram Dusad

1936
2/10/36

Yoram Ram. deusad.
Batamang

AG
2/11

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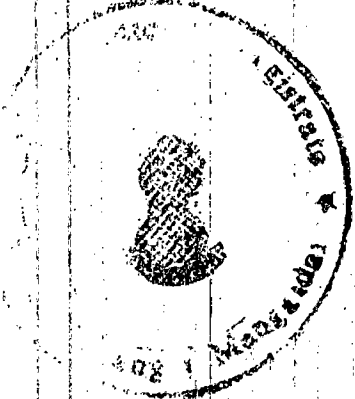


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(4) That this affidavit is required for the purpose of submitting before the authority concerned in order to substantiate the fact that I am a permanent resident of the above noted address for obtaining P.R.C. certificate.



VERIFICATION

I, Shri Gira Ram Dusad, do hereby solemnly affirm and state that the statements made by me the above paras are true to the best of my knowledge and belief and I sign this verification this the 2nd day of NOV/95 at Mangaldai.

Verified by [Signature]
 2.11.95

DEPONENT.



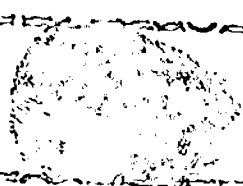
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18367
2/11/25

One
2/4

SEALING VENDOR
MANGALOT TOL
D...

Sl. No.	Name of the person	Full Home Address	Date of Birth	Date of Admission	Date of Reversion	Unit where det. position	Post/Grade	Remarks
65/91	Sudha Ram 870 Akhagali Road Mushka	Vill-15/10th Avenue PO-Hattigeri PS-Paneri Dist-Bangalore Assam	1-12-91	-	31/4/92	-	-	-



SECRET

A/30533/SD 2/71-C/D(GS-I)
 Government of India
 Ministry of Defence
 New Delhi, the 10th Jan 1979

The Chief of the Army Staff

Subject:- RAISING/DISBANDMENT

Sir,

I am directed to convey the sanction of the President to the following measures with immediate effect:-

(a) Raisings. Raising of the following Station Headquarters as per Appendix 'A':-

- (i) Station Headquarters Rangiya.
- (ii) Station Headquarters Agartala.
- (iii) Station Headquarters Suratgarh.
- (iv) Station Headquarters Mohar.
- (v) Station Headquarters Nabha.
- (vi) Station Headquarters Ganganagar.

(b) Disbandment. Disbandment of the following Units/Formations -

- (i) Headquarters 191 Bomb Disposal Group on WE 2191/1946/2
- (ii) Station Headquarters Poo functioning on PE IV/227/1946/2
- (iii) Station Headquarters Phuj functioning on PE IV/219/1946/2.

2. The expenditure involved is debitable to the relevant heads of the Defence Service Estimates.

3. Necessary administrative instructions will be issued by you.

4. The establishment will be reviewed by ASFC within two years from the date of completion of raising.

5. The 'Composition of the Regular Army' issued vide this Ministry's letter No 82607/SD 2/1468-C/D(GS.I) dated 2nd September 1975 as amended from time to time will be amended accordingly.

SECRET

.....2/-

SECRET

-13-

This issues with the concurrence of Ministry of
Finance(Defence) vide their no No 1434/S/GS-I of 1978.

Yours faithfully,

Balwant Singh
(Balwant Singh)
Desk Officer

Copy of the above is forwarded to:-

CGDA, CDA SC Pune, EC Patna, WC and CC Meerut, NC Jammu
CDA(O) Pune (OR) Madras and Meerut, DDAPS, CC Meerut,
WC Meerut, SrDDADS Pune.

Copy signed in ink to:-

The CDA Patna, (CC) and WC Meerut (NC Jammu, (EC) and
(O) Pune and (ORs) Madras and Meerut.

The Deputy Chief of the Army Staff (SD 2) 50, SD 6 (5),
SD 7 (15), SD 5 (2) and ASEC Sect.

The AG's Branch, AG Coord, Org 1(Pers)(a) (5), ASO Coord(3)

The QMG's Branch, Q1(E), OL-1.

The MGO Branch, MGO (Staff and Coord) (15)

The MS Branch (MS Coord) (3), RDP Centre (2)

E-in-C's Branch (EG-2)

The DGAFMS (2), DMS 3(c)

The DFA (GS) (O-I) (O-II) (O-III) (2/1/1/1)

The Deputy Secretary (ASEC)

Sections D(AG), D(GS-IV), D(Med), D(O-II), D(QS)

SECRET

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 264 of 1993.

Date of Order : This the 5th Day of September, 1995.

Justice Shri M.G. Chaudhari, Vice-Chairman.

Shri G.L. Sanglyine, Member (Administrative).

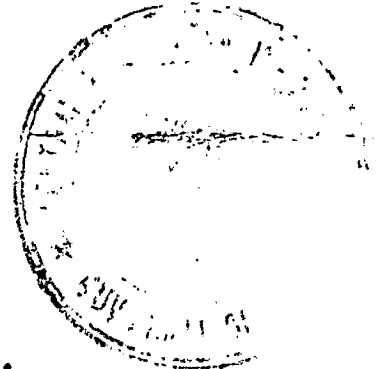
- 1. Shri Nripen Das
- 2. Md Khalil Ali
- 3. Shri Sunil Das,
- 4. Shri Gora Ram,
- 5. Shri Umesh Das,
- 6. Shri Bhairo Lohar

.. . Applicants.

By Advocate Shri J.L. Sarkar.

- Versus -

- 1. Union of India through Secretary to the Govt. of India, Ministry of Defence, New Delhi.
- 2. Additional Director General of Staff Duties (SDGB), General Staff Branch, Army Headquarters, DHG, New Delhi-1100011.
- 3. Administrative Commandant, Purv Kaman Mukhyalaya, Head Quarters, Eastern Command, Fort William, Calcutta- 700 021.
- 4. Administrative Commandants, Station Headquarters, Rangia, C/O 99 A.P.O.



By Advocate Shri A.K. Choudhury, Addl. C.G.S.C.

ORDER

CHAUDHARI J.(V.C)

The six applicants who are employed as Conservancy/Safaiwalas under the Station Headquarter, Rangiya (Assam) on different dates since 1982 onwards on daily wage basis at the rate of Rs.30.20 per working day on ^{no} work no pay basis, claim that having regard to the length of service for which they have been engaged on casual basis they have become eligible for being regularised but the respondents not having done so

Handwritten signature

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injustice is done to them and therefore they have approached the Tribunal by the instant O.A. seeking a direction to the respondents to regularise their services with all consequential service benefits including monetary benefits from the respective dates of engagement fixing pay at the minimum of the scale and not to terminate their services till regularisation.

2. The respondents contend that the services of the applicants cannot be regularised as regular posts are not authorised to the field station and they are also not entitled to regular salary and other allowances as they were engaged purely on daily wage basis depending on the actual requirement on ground and they were removed from services when not required subject to number of field units remaining in the field station. They further contend that although the higher authorities have issued administrative instructions regarding regularisation of Conservancy Safaiwalas subject to fulfilling the conditions ^{and} that they were employed against regular posts which were created prior to 3.1.1984 based on the recommendations of a Station Board of Officers but since Rangiya and other stations are not authorised any regular posts of Conservancy Safaiwalas being field station, the applicants are not entitled to be regularised. Thus according to the respondents since the employment of the applicants is not of permanent nature at Rangiya the applicants are not entitled to get the reliefs sought by them. According to them the applicants have been engaged on Stop gap basis and are purely temporary and that the requirement of the job decreases as and when field unit is left out of the field stations. Some of those posts ceased to exist resulting in disengagement of the casual employees like the applicants. The respondents have stated that the services of the applicants were no longer required due to

38

moving out of field units and they were therefore disengaged.

3. It however appears from the application that on the date on which it was filed i.e. 20.12.93 the applicants were engaged and by interim order dated 22.12.93 the Respondents were directed not to disturb their engagement as casual employees. The applicants therefore appear to have continued to be engaged till now.

4. Mr Sarkar, the learned counsel for the applicants with due amount of justification submitted that having regard to the welfare policy of the State and the view expressed by the Hon'ble Supreme Court time and again in several cases the respondents cannot avoid to regularise the services of the applicants on the ground that there are no posts since factually at all the times the services of the applicants have been needed. Our attention is pointedly drawn to the observations of the Supreme Court in *Rajesh Kumar Soni & Ors. vs. Ministry of Environment & Forest and Wild Life & Ors.* (1992) 21 ATC 401 wherein regularisation was directed in respect of employees who had been working for more than 4 to 5 years as that gave the impression that there was regular need for the employees. This exactly is the submission of Mr Sarkar as noted above. Our attention has also been drawn to the decision of the Supreme Court in *Rattan Lal & Ors. vs. Lt. Governors & Ors.* (1992) 21 ATC 402 in which also the Supreme Court was pleased to direct the Delhi Administration to absorb the casual employees under the scheme for absorption of casual labourers made effective from October, 1988.

5. Mr Sarkar places strong reliance upon the order of this Tribunal in O.A.228/93 dated 28.7.94 relating to similar Conservancy staff as the applicants at the same Headquarter,

contd. 4...

5/ namely, Rangiya under the present respondents. It was held that the break in service of those applicants was artificial and that cannot be encouraged being disadvantageous to the casual labourers and was likely to defeat their rights and having regard to the continuity of their service and the principles and guidelines for regularisation and fixation of minimum pay scale enunciated by the Supreme Court in various decisions the applicants (in that cases) were entitled for regularisation but only after obtaining sanction for the posts. The respondents were however, directed to pay those applicants the minimum of the appropriate pay scale of class IV category as Safaiwalas. The respondents were consequently directed to make communication with the Headquarter to obtain sanction for regularisation of those applicants within a period of six months and not to terminate their services till they were regularised and in the meantime to pay them the minimum of the pay scale. The respondents accordingly moved for obtaining sanction and Mr Sarkar now states that according to his instructions some of those applicants and some other Safaiwalas have been regularised. According to the learned counsel therefore similar course may be directed to be adopted in respect of present applicants.

6. The facts of the instant case reveal that the services of the applicants are being availed ever since 1983 onwards. Having regard to the preponderance of judicial opinion and the welfare policy of the State we are obliged to take the view that the applicants deserve to be considered for regularisation. That however cannot be directed straight away unless there are posts available against which their regularisation can be considered. The posts against which the applicants are engaged are not regular sanctioned posts as stated in the written statement. Even in the order in O.A.

228/93 it was noticed that the regularisation was dependent upon sanction of the posts. It is therefore clear that unless posts are sanctioned by the Government of India, Ministry of Defence, it would not be possible to regularise the applicants. We do not think that it lies within our province to direct the Government of India to sanction the posts under all circumstances. However, even though the power is exclusively vested with the Central Government to do so, we have no reason to believe that it will not be exercised suitably having regard to the overall circumstances particularly the view expressed by the Hon'ble Supreme Court from time to time and the decision in O.A.228/93 while considering the question of sanctioning further posts against which the applicants can be regularised.

7. The Government of India have framed a Scheme for grant of temporary status and Regularisation of casual workers namely, "Casual Labourers (Grant of Temporary Status and Regularisation) Scheme of Government of India 1993" for persons on daily wages basis in Central Government offices. We have no reason to think that it is not applicable to the workers under the respondents. The applicants therefore ought to be considered thereunder. If the scheme is not applicable it is high time that it is extended to workers under the respondents or similar scheme is prepared for them.

8. Mr A.K.Choudhury, the learned Addl.C.G.S.C submitted on behalf of the respondents that the Army Headquarters/Ministry of Defence have not found it essential to sanction regular posts at the field station, Rangiya and in the absence of such sanction the question of regularisation of the applicants does not arise. He further submitted that as the engagement of the applicants is on daily wage basis they cannot claim

contd. 6....

to be paid at the pay scale of class IV category. We have dealt with the first aspect in the foregoing discussion. On the second aspect we follow the earlier decision (in O.A. 228/93) and hold that on equitable grounds the applicants should be paid wages at the minimum of the pay scale of Grade IV employee and if sanction be necessary that should be accorded early.

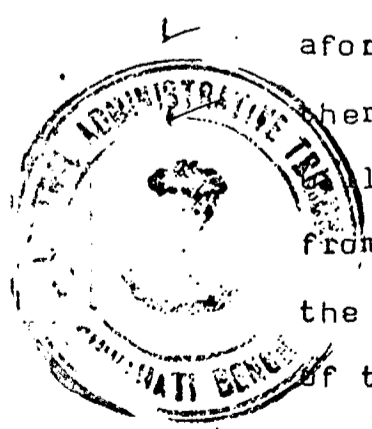
9. In the result following order is passed :

i) The respondents are directed that if the posts of Conservancy/Safaiwalas have been sanctioned by this time for Station Headquarter, Rangiya then the regularisation of the applicants be done in accordance with the rules against those posts.

ii) If there are no sanctioned posts then we direct the respondents No.3 and 4 to move the respondents 1 and 2 for sanctioning the posts of Safaiwalas at Rangiya Station Headquarter to facilitate the regularisation of the applicants.

iii) Alternatively we direct that the benefit of 1993 Scheme (mentioned above) may be considered to be extended to the applicants or steps may be taken to prepare a similar scheme for the employees like applicants serving under the respondents if the said scheme is not found applicable ^{to them} and extend the benefit of the scheme as may ^{be} framed to the applicants.

iv) We recommend to the respondents to take the aforesaid steps as early as ^{practicable} possible and extend the benefit thereof to the applicants ^{to the extent possible}. It is hoped that the respondents will take the aforesaid steps within a period of six months from the date of communication of this order and deal with the question of regularisation of the applicants in the light of the same.



v) In order to enable the respondents to consider taking the above steps the interim order dated 22.12.93 is hereby extended till 31.3.1996.

vi) The respondents are also directed to pay the minimum of pay scale to the applicants from the date of filing of the O.A. i.e. 20.12.93 till date and continue to pay the same during the currency of the interim order. Arrears from 9.12.93 of the difference of pay upto the end of September, 1995 to be paid and future payment to be continued from 1st October 1995 at the rate of minimum of the pay scale for Class-IV category of Safaiwalas.

O.A. is disposed of in terms of the aforesaid order.
No order as to costs.

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMN)



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प्रतिलिपि

[Handwritten Signature]
31/10

Section Officer (J)

मानसम अधिकारी / न्यायिक शाखा
General Administrative Tribunal

केन्द्रीय प्रशासनिक प्रधिकरण
Guwahati Bench, Guwahati-5
गुवाहाटी ब.ब.पीठ, गुवाहाटी-5

[Handwritten Signature]
31/10