

30/100
3
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 93/96.....
R.A/C.P No.....
E.P/M.A No.....

1. Orders Sheet..... Pg.....1.....to.....x.....

2. Judgment/Order dtd..... Pg.....1.....to.....x.....

3. Judgment & Order dtd..... Received from H.C/Supreme Court

4. O.A..... 93/96..... Pg.....1.....to.....38.....

5. E.P/M.P..... Pg.....to.....

6. R.A/C.P..... Pg.....to.....

7. W.S..... Pg.....1.....to.....1/P.....

8. Rejoinder..... Pg.....to.....

9. Reply..... Pg.....to.....

10. Any other Papers..... 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.)

Kahil
25/1/18

30-7-96

Learned counsel Mr. N.Chanda for the applicant. Learned Sr.C.G.S.C. Mr. S.Ali seeks four weeks time to file show cause. List on 26-8-96 for show cause and consideration of admission.

62
Member

PG

25-8-96

None for the applicant. Learned Sr.C.G.S.C. Mr. S.Ali seeks further time to submit written statement. Allowed.

List for written statement and further order on 24-9-96.

62
Member

LM

Mr. S.Ali, sr.C.G.S.C submits that the show cause is ready and seeks for adjournment.

List for show cause and consideration of admission on 8.10.96.

62
Member

PG

9/5/96

8.10.96

Learned counsel Mr. N.Chanda for applicant.

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

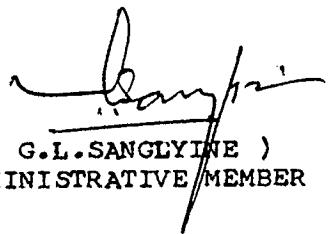
Show cause has not been filed. Considered that no further extension is allowed. Heard Mr. Chanda for complainant. The contents of the application are sought. Application is admitted. to be filed within six weeks.

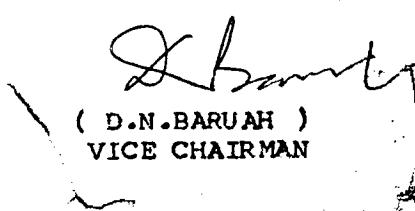
List for written statement and the order on 21.11.1996.

62
Member

they have considered the case in the manner indicated in the written statement. Mr Ali also agrees to the same. On hearing the counsel of the parties we dispose of the application with a direction to consider the case of the applicant. With this observation, we dispose of the application.

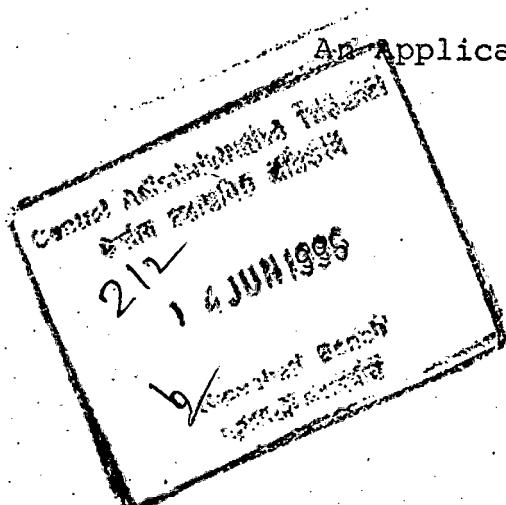
Considering the entire facts and circumstances of the case we however, make no order as to costs.


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N.BARUAH)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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



O.A. No. 93/96

Miss Swapna Banik

-Versus-

Union of India & Ors.

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-20
2	-	Verification	21
3	1	Certificate dated 18.4.84	22
4	2	Appointment letter dt. 20.7.84	23
5	3	Letter dt. 30.4.85	24
6	4	Certificate dt. 26.5.86	25
7	5	Representation dt. 8.6.91	26-27
8	6	Representation dt. 29.4.92	28
9	7	Letter dated 21.4.92	29
10	8	Letter dated 28.7.92	30
11	9	Judgement & Order dt. 5.9.95	31-33
12	10	Representation dt. 23.11.95	35-37
13	11	Interim Order dt. 19.1.93	38
14.	<u>Memo or answer</u>		39

Date : 13-6-96

Filed By :



Advocate



1. Particulars of the applicant.

Miss Swapna Banik

D/o Late Chunilal Banik

C/o Amrit Bhawan

Laban, Shillong-4

..... Applicant

2. Particulars of the Respondents.

1. Union of India,

Through Director of Zoological

Survey of India,

New Alipur,

M-Block, Calcutta-700 053

2. Sr. Administrative Officer,

Zoological Survey of India,

New Alipur,

Calcutta-700 053

3. Deputy Director,

Office of the Eastern Regional Station,

Zoological Survey of India,

Fruits Garden,

Risa Colony, Shillong-793003

..... Respondents.

3. Particulars for which this application is made.

This application is made praying for a direction for regular appointment on priority basis in the existing two vacant posts of Group D Peion/Sorter in the office

Swapna Banik

of the Eastern Regional Station, Zoological Survey of India, Fruits Garden, Risa Colony. It may be stated that for filling up of these two vacant posts of Group D Peon and Sorter requisition has been sent to Employment Exchange, Shillong and interview is likely to be held in the month of June, 1996 but the applicant is not called for the proposed interview for consideration of appointment on priority basis.

4. Limitation

The applicant declares that the application is made within the limitation prescribed in Section 21 of the Central Administrative Tribunals Act, 1985.

5. Jurisdiction

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

6. Facts of the case.

6.1 That the applicant is a citizen of India as such she is entitled to all the rights and privileges guaranteed under the Constitution of India. The applicant presently is an unemployed young girl having three dependents. She had passed her matriculation examination in the year 1978 from Meghalaya Board of School Education. She is a bona fide local resident of Shillong.

6.2 That the applicant was temporarily appointed as a casual typist for the period from 14.3.84 to 10.5.84 i.e.

S. Banik

for a period of 56 days in the office of the Eastern Regional Station, Zoological Survey of India, Fruits Garden, Risa Colony, Shillong-3. The officer-in-charge Eastern Station, Zoological Survey of India, Shillong had certified the aforesaid period of work under his certificate ~~XXXXXX~~ dated 18.4.84.

A copy of the certificate dated 18.4.84 is enclosed as Annexure-1.

6.3 That the applicant thereafter again offered an appointment for the post of casual typist on daily rated basis (no work no pay) in the office of the Eastern regional Station, Geological Survey of India, Shillong. It was specifically stipulated in the letter of appointment that her services would be terminated at anytime by one day's notice without assigning any reason. The aforesaid appointment letter was issued under their letter No. F.3-1/84-Genl./1057 dated 20th July, 1984. The applicant accepted the offer of appointment and joined on 24.7.84 in the office of the Eastern Regional Station, Zoological Survey of India, Risa Colony, Shillong and she had continued in the aforesaid post of casual typist till 30.4.85. The entire aforesaid service period of the applicant is unblemish and she had earned the appreciation of all concerned. She had worked for 216 days in the second term of her appointment as casual typist and altogether total No. of her working days stand as 272 days. The poor unemployed applicant thereby acquaired a valuable right for regular absorption/ appointment in the existing vacandies of any Group C and D posts.

Copies of the appointment letter dated 20.7.84 is annexed herewith as Annexure-2.


S. Banik

6.4. That the services of the applicant was terminated by the Respondent No. 3 vide his office order No. 19/85 dated 30.4.85 w.e.f. 1.5.85, wherein it was stated in the said office order dated 30.4.85 that the services of the applicant may be considered as and when necessary.

A copy of the office order dated 30.4.85 is enclosed as Annexure-3.

6.5. That the Deputy Director, Officer-in-Charge, Eastern Regional Station, Zoological Survey of India, Shillong also certified and appreciated the services of the applicant under his letter dated 26.5.86.

A copy of the certificate dated 26.5.86 is enclosed as Annexure-4.

6.6 That after termination of the service of the applicant by the Respondent she could not find out any other job to maintain her livelihood and thereafter she submitted a number of representations dated 8.6.91, 10.7.91, 28.8.91, 29.4.92 and 25.8.92 to the Director, Zoological Survey of India, M. Block 535-New Alipore, Calcutta-53 for appointment to the post of L.D.C. typist as she was passing very hard days and working as a typist in a small private firm. The officer-in-charge, Eastern Regional Station, Zoological Survey of India, Shillong, under his letter No. F.3-1/90-Genl/256 dated 21.4.92 informed her that her case has already been referred to the Director, Zoological Survey of India, Calcutta, for a suitable reply from headquarter office. Most unfortunately

S. B. Saini

the Scientist - SD & Officer-in-Charge, ERS, Zoological Survey of India, Shillong under his letter No. F-3-1/90-Genl./567 dated 28.7.92 informed the applicant that the administrative authority vide their letter No. F.2-8/82-Estt./11469 dated 28.7.92 informed that her request for regularisation against any Group C and D post in this Survey cannot be considered in terms of Ministry of Personnel, Public Grievances and Pensions ~~Department of Personnel & Training~~ (Department of Personnel & Training) O.M. No. 49014/16/89 Estt (C) dated 16.7.90.

Copies of the representations dated 8.6.91, 29.4.92, letter dated 21.4.92 and 28.7.92 are annexed herewith as Annexure 5,6,7,8 respectively.

6.7 That the applicant begs to state that she belonged to a very poor family having three dependents who are fully dependent on her sole income. The applicant had rendered her service more than 272 days in the said department and thereby she has acquired a valuable right for regular absorption/appointment against any existing vacant post of Group C or D.

Hon'ble

6.8 That the applicant thereafter approached this / Tribunal for redressal of her grievances through O.A. No. 11/93. The Original Application was duly contested by the respondents and disputed about the total days of working period. However unfortunately in the judgement it is observed in paragraph 3 that the applicant was not

S. Banik

sponsored by the Employment Exchange but infact the applicant was initially sponsored by the Employment Exchange, Shillong and this cannot be disputed by the respondents also. However the present application is now praying for a direction upon the respondents for consideration of her appointment on priority basis in the two vacant Group D posts for which the respondents are ranging to conduct interview. In this connection it may also be stated that in the said ~~judgement~~ Original Application was disposed of with the following observations:

" 4. The respondents have stated in the written statement that the post of LDC/Typist as per the recruitment rules is to be filled through Staff Selection Commission and Group 'D' posts are to be filled through Employment Exchange. The applicant does not fulfil these requirements and therefore naturally she could not be considered. The respondents have also stated that the applicant was not qualified under the recruitment rules to be appointed as a Sorter. The respondents have further stated that there was no vacant post available against which the applicant can even be appointed on casual basis. We thus fail to understand as to on what basis the applicant can be directed to be appointed in a Group 'C' or 'D' post under the respondents, which is the relief sought by her.

S. Banik

✓ 5. Mr. Sarkar submitted that the respondents may consider appointment of the applicant against whatever post as and when it may be available even on casual basis and consider thereafter for appointing her in Group 'C' or 'D' post and regularise her. We find it difficult to make such a direction but that assurance was already given in the office order dated 30.4.85 Annexure-C of the respondents, wherein it was stated that her services may be considered as and when necessary. Between 1985 and 1993 such occasion does not appear to have arisen. If such occasion is to arise hereafter the assurance given can always be relied upon by the applicant and seek the appointment depending upon the circumstances then prevailing. It would be for the respondents to deal with such application in accordance with the prevailing rules and requirement. That was also left open by the interim order dated 19.1.93. We would only like to add that if the applicant would be fortunate to have her candidature considered the respondents may not overlook the past service she has put in as casual employees. Thus no direction can be given to the respondents as prayed.

6. O.A. is disposed of. No order as to costs".

The Original Application 11/93 was decided on 5.9.95 and thereafter the applicant approached the respondents through a representation dated 23.11.95 praying for

✓ S. Banik

appointment to the existing vacant two posts of Group D in the office of the Eastern Regional Station, Zoological Survey of India, Fruits Garden, Risa Colony, Shillong with a copy of the Judgement and Order dated 5.9.95 and also she annexed a standard application form duly filled in and signed by the applicant.

A copy of the Judgement and Order dated 5.9.95 passed in O.A. No. 11/93 and copy of the representation dated 23.11.95 are annexed as Annexures 9 and 10 respectively.

6.9 That your applicant very recently came to know from a reliable source in the month of May 1996 that presently there are two group D posts are lying vacant one post of Group D Peon which fall vacant due to promotion of one Sri Debasish Bhowmick to Group C Post and the another post of sorter is also vacant. The applicant expected that she will also to be called for the interview but till date she has not yet been intimated anything regarding the proposed recruitment of Group D post of Peon and Sorter. Thereafter under the compelling circumstances she finding no other alternative approaching this Hon'ble Tribunal for protection of her legitimate rights and interests. Be it stated that the applicant was all along registered with the Local Employment Exchange i.e. Shillong and till date she is also in the live register in the Employment Exchange, Shillong.

6.10 That it is observed in the Judgement and Order dated 5.9.95 passed in O.A. 11/93 in paragraph 5 that it was also left open by the interim order dated 19.1.93 to

S. Banik

consider the case of the applicant for appointment against the vacancy of typist or sorter or any other job even on casual basis. The respondents in O.A. 11/93 contend that there was no vacancy available at the relevant time. However a vacancy of one Group D posts is still vacant and the same is going to be filled up now by the respondents after finalisation of the O.A. 11/93 and therefore perhaps the respondents did like to consider the case of the applicant for appointment against the existing vacancies of Group D. The applicant in the circumstances compelled to approach this Hon'ble Tribunal for a direction upon the respondents for consideration of appointment of the applicant against existing vacancies of Group D posts.

A copy of the interim Order dated 19.1.93 passed in O.A. 11/93 is annexed as Annexure-11.

6.11 That the law is well settled as regard the casual employees who had served for long spell in any Central Government Organisation and for consideration of appointment on priority basis as and when vacancies are available. In this connection the applicant begs to refer the Judgement and order dated 16.2.90 in O.A. 2306/89 in the case of Raj Kamal and Ors Vs. U.O.I reported in 1990 (2) SLJ CAT 169. In paragraph 21 of this judgement it is observed as follows :

" 21. We are, therefore, of the opinion that in order to solve the problem of casual labourers engaged in the Central Government offices

S. Banerjee

in a fair and just manner, the proper course for the Government ~~would~~ be to prepare a scheme, somewhat like the one in operation for redeployment of surplus staff, vide Department of Personnel and A.R.'s O.M. No. 3/27/65-CS-II dated 25.2.1966 and amplified vide Department of Personnel and Training's O.M. No. 1/8/81-CS-II dated 30.4.1987, and the Department of Personnel and Training's O.M. No. 1/14/88-CS-III dated 31.3.1989 and 1/18/88-CS.III dated 1.4.1989, for all casual labourers engaged prior to 7.6.1988, but who had not been regularised by the authority concerned for want of regular vacancies or whose service has been dispensed with for want of regular vacancies. Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/206 days (in the case of six days/five days week, respectively in each of the two years prior to 7.6.1988 will

S. Banik

will have priority over the others in regard to insorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be restored to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age limit".

In the light of the above Judgement and Order the case of the applicant is squarely covered and the applicant is entitled to be considered for appointment on priority basis for the existing Group D posts. Be it stated that although she was utilised for typing job but her appointment in the said department was on casual basis. Therefore the applicant is entitled to be considered for appointment to Group D post.

A similar question also dealt with in the Judgement and Order dated 8.2.91 passed by the Principal Bench, New Delhi, in the case of Basu Dev and Ors. Vs. U.O.I, reported in ATC 1991 Vol. 17 Page 679 wherein the Hon'ble Principal Bench observed as follows :

S.Banik

" 12. The Supreme Court has directed the Government to prepare schemes for regularising casual workers in the Railways, the Posts and Telegraphs Department, the Income Tax Department, the Delhi Municipal Corporation, Nehru Yuvak Kendras, C.P. W.D. and P.W.D. Daily-wage Employees in Karnataka (vide Inder Pal Yadav V. Union of India relating to the Railways; Daily-Rated Casual Labour Employed under P & T V. Union of India relating to P & T Department; ~~MP~~ U.P. Income Tax Department V. Union of India; Delhi Municipal Corporation Karamchari Ekta Union V. P.L. Singh, Dhirendra ~~xxxxxx~~ Chamoli Vs. State of U.P. relating to Nehru Juvak Kendras; Surinder Singh V. Engineer-in Chief, C.P.W.D. and Dharward District P.W.D. Literate Daily Wage Employees v. State of Karnataka Referring to the leading decisions on the subject, the Supreme Court made the following pertinent observations in the Karnakata case, mentioned above :

"We have referred to several precedents all rendered within the current decade - to emphasise upon the feature that equal pay for equal work and providing security of service by regularising casual employment within a reasonable period, have been unanimously accepted by this Court as a constitutional goal to our policy. Article 141 of the Constitution provides how the directions of this Court are to be treated and we

Bank

do not think there is any need to remind the instrumentalities of the State - be it of the Centre or the State, or the public Sector - that the Constitution makers wanted them to be bound by what this Court said by way of interpreting the law".

13. In the light of the aforesaid legal position, the framing of a suitable scheme for regularising the casual Artistes of Doordarshan is a constitutional imperative and long overdue.

14. In our considered view, the respondents should frame a scheme for absorption of Casual Artistes who have worked for a period of one year and more, keeping in view the following aspects :

i. Casual Artistes who have been engaged for an aggregate period of 120 days, may be treated as eligible for regularisation. The broken periods in between engagement and disengagement, are to be ignored for this purpose.

ii. The respondents shall prepare a panel of Casual Artistes who had been engaged on contract basis, depending on the length of service. The names of those who have not been regularised so far, specially from 1980 onwards, though may not be in service now, are to be included in the panel. Persons born on the panel, are to be considered for regularisation in the available vacancies.


S. Banerjee

iii. For the purpose of regularisation, the upper age-limit has to be relaxed to the extent of service rendered by the Casual Artistes. 120 days' service in the aggregate shall be treated as the service rendered in one year for this purpose.

iv. Till all the Casual Artistes who have been engaged by the respondents have been regularised, the respondents may not resort to fresh recruitment of such Artistes through Employment Exchange or otherwise.

v. Till the Casual Artistes are regularised, the wages to be paid to them should be in accordance with the scale of pay of the post held by a regular employee in an identical post. The amount of actual payment would be restricted to the actual number of days worked during a month!"

The Central Administrative Tribunal, Principal Bench, New Delhi has also expressed similar view in the case of P. Manuswamy and Ors. Vs. U.O.I. & Ors reported in ATC 1992 Vol 22 Page 115. The relevant portion of the Judgement and Order passed in O.A. Nos. 1154/91, 1827, 1843 and 1954 of 1990 ~~xxxxxx~~ dated 24.12.1991 is quoted below :

"11. In the light of the above, the applications are disposed of with the following orders and directions :

S Bank

(i) The respondents are directed to prepare a list of casual labourers engaged in their various offices located in Delhi and elsewhere from time to time through Employment Exchange or otherwise. Whenever they need the services of the casual labourers, they should be engaged from the said list, preference being given to those who have put in longer period of service than the others. The broken periods of service shall not be reckoned for the purpose of determining the total length of service.

(ii) We hold that the practice of disengaging casual labourers and engaging fresh recruits through Employment Exchange is not legally sustainable and disapprove the same.

(iii) The respondents shall consider regularisation of the casual labourers in Group D posts whenever vacancy arise due to retirement or otherwise. Such regularisation should be in accordance with the administrative instructions issued by the Department of Personnel and Training. Till they are so regularised, they should be paid wages on the scale prescribed by the Department of Personnel and Training.

(iv) The applicants shall be accommodated as casual labourers in their offices located at Delhi or elsewhere, depending on the

S. Banerji

availability of vacancies and in accordance with the aforesaid directions. Interim orders passed in these cases are hereby made absolute.

(v) There will be no order as to costs".

From above it is quite clear the the applicant has acquired a valuable and legal right for consideration of regular appointment on priority basis.

6.12 That the applicant under the circumstances stated above finding no other alternative approached this Hon'ble Tribunal for a direction upon the respondents to consider the appointment of the applicant against the existing vacancy of Group D for which interview is likely to be held in the month of June, 1996.

6.13 That this application is made bonafide and for the cause of justice.

7. Reliefs sought for :

Under the facts and circumstances stated in this application the ~~application~~ applicant prays for the following reliefs :

1. That the respondents be directed to appoint the applicant in the existing Group D Vacancies of Peon/Sorter on priority basis taking into consideration the past service of the applicant.

S. Banik

2. To pass any other order or orders as deemed fit and proper under the facts and circumstances stated above.
3. 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 applicant has rendered her service as casual worker in the said department and thereby she has acquired a legal right for regular absorption/appointment in the existing Group D vacancies on priority basis.
2. For that there are two vacant posts of Group D Peon/Sorter in the office of the Eastern Regional Station, Zoological Survey of India, Shillong.
3. For that the applicant was initially sponsored through Employment Exchange, Shillong in the aforesaid department for appointment on casual basis.
4. For that the applicant acquired a valuable ~~right~~ and legal right for absorption on priority basis in terms of the law laid down by the Hon'ble Tribunal.

S. Banik

5. For that the respondent had sent requisition for filling up the existing vacancies of Group D posts Peon/Sorter.
6. ~~For that the respondents is likely to arrange interview~~ for the vacant group D posts shortly.
7. For that the applicant belongs to a very poor family and has no other alternative source of income.

8. Interim Relief sought for :

1. For that the respondents be directed to consider the applicant for appointment in the existing ~~two~~ vacant posts of Group D.

The above interim relief ~~is~~ prayed on the grounds mentioned in paragraph 7 of this application.

9. Details of remedy exhausted :-

There is no scope of any other remedy under any rule. There is no service rule in this respect and the Hon'ble Tribunal is the only remedy for the present applicant.

10. Matter not pending in any other Court/Tribunal.

The applicant declares that he has not filed any other application before any Court/Tribunal.

S. Bevin

11. Particulars of postal orders.

Postal Order No. : 346218
Date of Issue : 10-6-96
Issued from : G.P.O., Guwahati.
Payable at : G.P.O., Guwahati

12. Details of Index

An Index showing the particulars of documents is enclosed.

13. List of enclosures:

As per Index.

S Baruah

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

I, Miss Swapna Banik, Daughter of late Chunilal Banik, resident of Laban, Shillong, do hereby declare that the statements made in this application from paragraphs 1 to 13 are true to my knowledge and belief and I have not suppressed any material facts of this case.

I, sign this verification on this the 13/6
day of June, 1996.

Swapna Banik
SIGNATURE
(SWAPNA BANIK)

Annexure-1

GOVERNMENT OF INDIA.

Tel. Address :

"Zoolsur, Shillong
Phone-23638

Eastern Regional Station,
Zoological Survey of India,
Fruit Garden, Risa Colony,
Shillong-3, (Meghalaya)

TO WHOM IT MAY CONCERN

Certified that Miss Swapna Banik, daughter of Late Chunilal Banik of Laban, Shillong was appointed in this Office as a Casual Typist with effect from 14.3.84 to 10.5.84. As a Casual Typist she was found sincere, hard worker, punctual and obedient to her superiors.

Nothing was known against her characters.

I wish her all success in life.

Sd/- Illegible

18.4.84

Officer-inCharge,
Eastern Regional Station
Zoological Survey of India.

Attest
Bhulu
Adv.

GOVERNMENT OF INDIA

Tel . ZOOLSUR, SHILLONG
Phone : 23638

Eastern Regional Station,
Zoological Survey of India
Fruit Garden, Risa Colony,
Shillong-3 (Meghalaya).

No. F.3-1/84-Genl./1057

Dated, 20th July, 1984.

OFFER OF PURELY TEMPORARY APPOINTMENT.

The undersigned hereby offers Smt. Swapna Banik a purely temporary post of Casual Typist on daily rated basis (no work no pay), in the office of the Eastern Regional Station, Zoological Survey of India, Shillong. Her services will be terminated at any time by one Day's notice without assigning any reason.

She will produce her S.L.C. or equivalent examination certificate and Typing, Certificate at the time of joining the post.

If Smt. Swapna Banik accepts the offer on the above terms, she should report for duty to the undersigned by 24th July, 1984, failing which this offer of appointment will be treated as cancelled.

*Amrited
Wli
pdw*

Sd/-Illegible

20.7.84

Officer-in-Charge
Eastern Regional Station
Zoological Survey of India,
Shillong

To

Smt. Swapna Banik,
C/o Smt. Krishna Banik,
'Amrit Bhawan Compound'
Laban, Shillong-4
(Meghalaya).

Annexure-3

GOVERNMENT OF INDIA

Tel Address

"Zoolsur, Shillong"
Phone 23638

Eastern Regional Station,
Zoological Survey of India,
Fruit Garden, Risa Colony
Shillong-793003

Office Order No. 19/85 Dated 30.4.1985.

With reference to this office letter No. F.3-1/94-Genl./1057, dated 20.7.1984, the services of Smt. Swapna Banik will be terminated from the post of Casual Typist in the ERS, ZSI, Shillong with effect from the forenoon of Ist May, 1985. However, her services may be considered as and when necessary.

Sd/- Illegible

30.5.85.

Officer-in-Charge,
Eastern Regional Station,
Zoological Survey of India,
Shillong

Copy to :

1. Smt. Swapna Banik
C/o Smt. Krishna Banik
Laban, Shillong-4

*Attested
Chhales
AdS*

Annexure-4

GOVERNMENT OF INDIA

Tel address :
"Zoolsur, Shillong"
Phone-23638

EASTERN REGIONAL STATION
ZOOLOGICAL SURVEY OF INDIA,
RISA COLONY, SHILLON -793003

Dated - 27th May, 86

TO WHOM IT MAY CONCERN

This is to certify that Smt. Swapna Banik worked as a Casual Typist in this office during the period from 24th July, 1984 to 30th April, 1985.

She was sincere and har working and nothing is known against her character.

I wish her success in life.

Sd/- Illegible

(Dr. J.R.B.Alfred)
Deputy Director,
Officer-in-Charge,
Eastern Regional Station,
Zoological Survey of India,
Shillong

*Attest
Chhili
Adv*

Ist Reminder

8.6.91

To
The Director
Zoological Survey of India,
'MC Block,
535-New Alipore,
Calcutta-53

Sub : 'Regularisation to the post of LDC, as I was
Casual LDC cum Typist from 14.7.84 to 30.4.85
in ERS/ZSI, Shillong.

Request for.

Sir,

With due respect & humble submission I beg to
state a few lines for your kind consideration and favourable
order :-

1. That Sir, I had been working as a casual Typist cum
L.D.C. w.e.f. the period as mentioned above in your Deptt.
at ERS/Shillong, Meghalaya. After the long period of
service I was released by the O/C of ERS/Shillong from the
post of Casual Typist instead of considering me. My age was
about crossed to the bar of age limit according to the
Govt. of India's rule. I requested through Employment
Exchange, Shillong according to the relaxation for age
like others. At present I am working as a Typist in a
private firm in Shillong, getting a very small amount for
which I am passing my days this hard North Eastern Region,
Meghalaya. If I would be regularised it would be a great
help for me & for my family.

In this connection the Govt. of India's order in
says that 2.2. A Casual labourer may be given the benefit of
2 years continuous service as casual labourer if he has put

*Attested
While
Adm*

in at least 240 days (206 days in the case of offices observing 5 days week) of service as per casual labourer (including broken period of service during each of the two years of service referred to above.

(G.I. M.F. O.M. No. F.B(2)-Estt. (Spl)60, dated the 24th January, 1961. M.H.A. O.M. 6/52/60-Estt (A) dated the 16th February, 1961 No. 16/10/66-Estt (D) dated the 2nd December, 1966; 14/1/68-Estt (C), dated the 12th February, 1969, and D.P & A.R. O.M. No. 49014/19/8 Estt. (C) dated the 26th October, 1984. It was clearly mentioned that if a casual labourer's engaged through employment exchange for 240 days or above he/she would be regularised.

Under the above circumstances, I am to request you that you would be kind enough to consider my case sympathetically & I may kindly be regularised to the post of LDC. as prayed for w.e.f. 14.7.84 or as admissible according to the Govt. of India's Rule for which act of your kindness I shall remain grateful to you.

A line in reply to thereafter effect may be most significant.

Thanking you,

Yours faithfully,

Sd/- Swapna Banik
C/o Amrit Bhawan Camp.
Laban, Shillong-4

Dated the

Copy to

1. General Secretary, ZSI/E.A., New Alipore, Calcutta-53 for necessary action.

2. The Secretary, ZSI/ERS/Shillong for necessary action.

*Attested
Dhru
JDN*

Urgent

To

The Director,
Zoological Survey of India,
M Block, New Alipur,
Calcutta-53

Sub : Regularisation to the post of L.D.C. in respect of
Smt. Swapna Banik.

Sir,

I have to invite your honour's kind attention
to your office letter No. 2-8/82-Estt/13543 dt. the 10th
August 1991 on the above subject (copy enclosed for
ready reference & state that on my pursuing the case at
the end of the Officer-in-Charge, Eastern Regional
Station, Shillong as advised in your office letter dt.
10 Regional Station that my case has already been referred
to your good self for a suitably reply & that as soon as
the office will receive the reply from the Administrative
Authority, the same will be intimated to me immediately
(Copy of Eastern Regional Station letter No. F. 3-1/90-
Genl./286 dt. the 21st April 1992 is enclosed.

As such I would pray for an expeditious reply
action from your honour's end & for the act of kindness
I shall remain ever grateful,

Thanking you,

Attended
W.B.
ABV
Copy to :-

The Officer-in-Charge
Eastern Regional Station,
Zoological Survey of India,
Shillong.

The Secretary,
ERS/ZSI
Shillong.

Yours faithfully,
Sd/- Swapna Banik

Sd/- Swapna Banik

Annexure-7

GOVERNMENT OF INDIA

Tel. Address
Zoolsur. Shillong
Phone-23638

Eastern Regional Station
Zoological Survey of India,
Fruit Garden Risa Colony,
Shillong-3, Meghalaya

No: F.3-1/90-Genl/256

Dated, 21st April, 92

To
Smt. Swapna Banik ~~exx~~
C/o Krishna Banik,
Amrit Bhawan Compound
Laban, Shillong-4

Sub : Regularisation to the post of L.D.C. in respect
of Smt. Swapna Banik.

Madam,

With reference to your application dated 13th April, 92 on the above subject, I am to inform you that your case has already been referred to the Director, Zoological Survey of India, Calcutta, for a suitable reply from our Headquarters office. As soon as we receive the reply from the Administrative Authority same will be intimated to you immediately.

Yours faithfully,

Sd/- Illegible

21.4.92

Attested
Chile
Adv
for Officer-in-Charge,
Eastern Regional Station,
Zoological Survey of India
Shillong

Annexure-8

-30-

REGISTERED

04

GOVERNMENT OF INDIA

Tel. Address
"Zoolsur, Shillong"
Phone-23638

EASTERN REGIONAL STATION,
ZOOLOGICAL SURVEY OF INDIA,
RISA COLONY, SHILLONG-793003

No. F.3-1/90-Genl./567

Dated 28th July, 1992

To

Smt. Swapna Banik
C/o Krishna Banik
Amrit Bhawan Compound
Laban,
Shillong-793004

Sub : Regularisation in the post of L.D.C. in Eastern
Regional Station, Zoological Survey of India,
Shillong.

Madam,

In continuation of this office letter No. F.3-1/
90-Genl./256 dated 21st April, 1992 I am to inform you
that I am in receipt of the reply from our Administrative
Authority just today and they have conveyed vide letter
No. F.2-8/82-Estt./114699 dated 24th July, 1992 that your
request for regularisation against any Group C and D post
in this survey cannot be considered in terms of Ministry
of Personnel, Public Grievances & Pensions (Department
of Personnel & Training) O.M. No. 49014/16/89-Estt. (C)
dated 16th July, 1990.

Yours faithfully,

Sd/- Dr. RH Kamble
Scientist-SD & Officer-in-Charge
Eastern Regional Station,
Zoological Survey of India
Shillong.

Attested
R. Kamble
A. D. W.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUNAHATI BENCH

Original Application No. 11 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)

Miss Swapna Banik

Daughter of Late Chunilal Banik
C/o Amtir Bhawan
Laban, Shillong-4

..... Applicant

By Advocate Shri J.L.Sarkar.

-versus-

1. Union of India
Through the Director of Zoological
Survey of India,
New Alipur, M.Block,
Calcutta-53.
2. Senior Administrative Officer,
Zoological Survey of India,
New Alipur, Calcutta-53.
3. Deputy Director,
Office of the Eastern Regional Station,
Zoological Survey of India,
Fruit Garden,
Risa Colony, Shillong-3

..... Respondents

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

O R D E R

CHAUDHARI J (V.C.).

*After Med
Wb
Adv*

The applicant was appointed as a Casual Typist initially for 56 days on 14.3.1984 in the office of the Eastern Regional Station, Zoological Survey of India, Shillong. After that period was over she was engaged in another spell. After each spell there was break in service. The last spell was from 1.4.85 to 30.4.85. The applicant worked for a total of 215 days in that manner. However, by order dated 30.4.85 her services were terminated. The said order is however not the subject matter of challenge. She seeks a direction to appoint her in any Group C or D post on existing vacancy of sorter.

2. The first hurdle in the way of the applicant is that the O.A. was filed on 18.1.93 i.e. nearly after 7 years after the order of termination. It is too late in the day to envisage relief as prayed. What the applicant has made the basis for filing the O.A. is the letter of the respondent No. 3 dated 28.7.92 rejectint the request of the applicant for regularisation against any Group 'C' or 'D' post. We fail to understand as to how the relief of regularisation can even to be considered.

3. From the respresentation of the applicant dated 8.6.91 it can be gathered that even at that stage she had only applied to the Employment Exchange, Shillong for relaxation of age limit which shows that she had become age bar for claiming regularisation. The applicant has however, not shown that she had been sponsored through Employment Exchange at any point of time or at the time when she was given the casual employment. Her qualification appears to be only Matriculate.

4. The respondents have stated in the written statement that the post of LDC/Typist as per the recruitment rules is to be filled through Staff Selection Commission and Group 'D' posts are to be filled through Employment Exchange. The applicant does not fulfil these requirements and therefore naturally she could not be considered. The respondents have also stated that the applicant was not qualified under the recruitment rules to be appointed as a Sorter. The respondents have further stated that there was no vacant post available against which the applicant can even be appointed on casual basis. We thus fail to understand as to on what basis the applicant can be directed to be a-ppointed in a Group 'C' or 'D' post under the respondents, which is the relief sought by her.

*Appealed
W.D.
J.V.*

5. Mr. Sarkar submitted that the respondents may consider appointment of the applicant against whatever post as and when it may be available even on casual basis and consider thereafter for appointing her in Group C or D post and regularise her. We find it difficult to make such a direction but that assurance was already given in the officer order dated 30.4.85 Annexure-C of the respondents, wherein it was stated that her services may be considered as and when necessary. Between 1985 and 1993 such occasion does not appear to have arisen. If such occasion is to arise hereafter the assurance given can always be relied upon by the applicant and seek the appointment depending upon the circumstances then prevailing. It would be for the respondents to deal with such application in accordance with the prevailing rules and requirement. That was also left open by the interim order dated 19.1.93. We would only like to add that if the applicant would be fortunate to have her candidature considered the respondents may not overlook the past service she has put in a casual employee. Thus no direction can be given to the respondents as prayed.

6. O.A. is disposed of. No order as to costs.

Sd/- Vice-Chairman

Sd/- Member (Admn)

A. H. B. S.
A. H. B. S.
A. H. B. S.

To

The Director
Zoological Survey of India
New Alipore, M Block
Calcutta-700053

(Through the Dy. Director, Office of the Eastern
Regional Station, ZSI, Fruits Garden, Risa Colony,
Shillong-3).

Sub : Prayer for appointment to the existing two vacant
posts of Group D Peon in the Office of the Eastern
Regional Station, ZSI, Fruits Garden, Risa Colony,
Shillong-3.

Respected Sir,

I have the honour to draw your kind attention on
the subject cited above and beg to offer my candidature
for consideration of appointment on priority basis against
existing two vacant posts of Group D Peon which are lying
vacant in the Shillong Office of the ZSI in terms of
Judgement and Order passed in O.A. No. 11/93 dated 5.9.95.
Further I beg to state that I have served in the office of
the Eastern Regional Station, ZSI, Shillong in the year
1984 and also in the year 1985 on casual basis as typist and
thereafter although I have been informed that my service is
no longer required but by letter dt. 30.4.85 issued by the
office of the Deputy Director, Eastern Regional Station,
ZSI, Shillong wherein it was stated that my service may be
considered as and when necessary. Therefore I have a legiti-
mate expectation that as soon as regular vacancy arises my
candidature would also be considered on priority basis for
any regular post of Group C or D. I, being aggrieved for
non-appointment to any post of Group C or D I had filed an
application before the Hon'ble Tribunal Guwahati Bench,
Guwahati with a prayer for my appointment to any Group D or
D posts in the office of the Eastern Regional Station, ZSI,
Fruits Garden, Risa Colony, Shillong. My original Application

affixed
White
fw

was registered as O.A. No. 11/93 in the Hon'ble Tribunal and the same was heard and finally disposed of on 5.9.95. The Hon'ble Tribunal while disposing the Original Application by the Hon'ble Tribunal the Hon'ble Tribunal observed in paragraph 4 of the Judgement and Order dated 5.9.95 passed in O.A. No. 11/93 as follows :

"The respondents have further stated that there was no vacant post available against which the applicant can even be appointed on casual basis. We thus fail to understand as to on what basis the applicant can be directed to be appointed in a Group 'C' or 'D' post under the respondents, which is the relief sought by her".

It is further observed in paragraph 5 of the Judgement and Order dated 5.9.95 passed in O.A. No. 11/93 as follows :

"Mr. Sarkar submitted that the respondents may consider appointment of the applicant against whatever post as and when it may be available even on casual basis and consider thereafter for appointing her in Group 'C' of 'D' post and regularise her. We find it difficult to make such a direction but that assurance was already given in the Office order dated 30.4.85 Annexure-C of the respondents wherein it was stated that her services may be considered as and when necessary. Between 1985 and 1993 such occasion does not appear to have arisen. If such occasion is to arise hereafter the assurance given can always be relied upon by the applicant and seek the appointment depending upon the circumstances then prevailing. It would be for the respondents to deal with

*Attested
Dilip
Adw*

such application in accordance with the prevailing rules and requirement. That was also left open by the interim order dated 19.1.93. We would only like to add that if the applicant would be fortunate to have her candidature considered the respondents may not overlook the past service she has put in as casual employee. Thus no direction can be given to the respondent as prayed".

Therefore from the above it is quite clear that the Hon'ble Tribunal's observations from the following few lines " if such occasion is to arise hereafter the assurance given can always be relied upon by the applicant and seek the appointment depending upon the circumstances prevailing. It would be for the respondents to deal with such application in accordance with the prevailing rules and requirement. That was also left open by the interim order dated 19.1.93. We would only like to add that if the applicant would be fortunate to have her candidature considered the respondents may not overlook the past service she has put in as casual employee." According to the above observations I beg to state that I have come to know from

After
While
Adm
a reliable source that there are two vacant posts of Group D Peon are still lying vacant in the office of the Eastern Regional Station, ZSI, Fruits Garden, Shillong and also came to know from a reliable source that requisition had already been sent to the Employment Exchange, Shillong. Therefore I beg to offer my candidature herewith this representation in terms of the Judgement and Order passed by the Hon'ble Tribunal, Guwahati dated 5.9.95 for consideration my candidature for the post of Group 'D' Peon on priority basis or to any other post. Be it stated that my name is already been registered with the local Employment Exchange, Shillong. Therefore I would like to request your goodself to

consider my case on priority basis as retrenched employee in one of the two existing vacant posts. In this connection I also like to mention that one post of Group D Peon is lying vacant after appointment of Shri Debasish Bhowmick, Group D Peon to Laboratory Assistant vide Office Order No. 2/94 dated 21.10.94. Therefore I may be considered in the aforesaid post of Group D Peon which is lying vacant presently in the Shillong Office.

In this context I am enclosing a copy of the Judgement and Order dated 5.9.95 passed in O.A. No. 11/93 and a standard form duly filled in and signed for my candidature to the post of any Group 'C' or Group 'D' post.

An early action in this regard is solicited.

Enclo : As stated above

Yours faithfully,

Sd/- SWAPNA BANIK

23.11.95

*After signed
Oshu
JW*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 11/93

Miss Swapna Banik Applicant

vers.

Union of India & Ors. ... Respondents.

P R E S E N T

THE HON MR. JUSTICE S. HAQUE, VICE-CHAIRMAN
THE HON'BLE MEMBER G.L.SANGLYINE, ADMINISTRATIVE

For the Applicant : Mr. J.L.Sarkar, Mr. M.Chanda.

For the Respondents : Mr. A.K. Choudhury, Addl.C.G.S.C.

DATE	COURT'S ORDER
19.1.93	Heard learned counsel Mr. J.L.Sarkar on behalf of applicant Miss Swapna Banik. Perused the statement of grievances and reliefs sought for in this application.
	This application is admitted. Issue notice on the respondents under Registered Post. Learned Addl. C.G.S.C. Mr. A.K.Choudhury takes notice of this case and prays for six weeks time to file counter. Time allowed as prayed for.
	Heard counsel of the parties on the interim relief prayer. It is stated that Miss Swapna Banik served for about 272 day as Casual Typist (Group C) in the office of the Eastern Regional Station, Zoological Survey of India, Shillong and that she was entitled for regularisation in that service. Considering this aspect, it is ordered that pendency of this application shall not be a bar for Respondent No.3, namely the Deputy Director of the Eastern Regional Station, Director of the Eastern Regional Zoological Survey of India, Shillong to utilise the services of the applicant against the vacancies of Typist or Sorter or in any other job, even on casual basis.

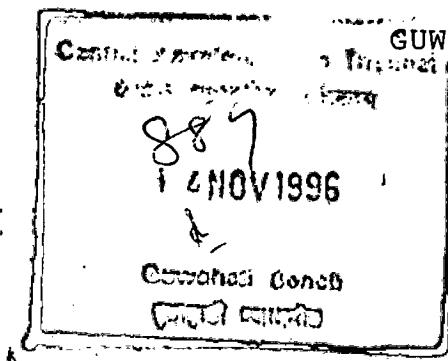
List on 8.3.1993 for counter and order.

Sd/- S.Haque, Vice-Chairman
Sd/- G.L.Sanglyvine, Member (A)

(29)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :

GUWAHATI BENCH AT GUWAHATI.



O. A. NO. 93/96

Miss Swapna Banik

-Vs-

The Union of India & others.

- AND -

IN THE MATTER OF :

Written Statements submitted by
the Respondents No. 1, 2 & 3.

WRITTEN STATEMENTS :

The humble Respondents beg to
submit their Written Statements as
follows :

- 1) That With regard to the statements made in paragraphs 1, 2, 3, 4 & 5 of the application the Respondents have no comments.
- 2) That with regard to the statements made in paragraph 6.1 & 6.2 of the application the Respondents beg to state that they have no comments the same being matters of record.

(Contd.)

Read by
Chandak
S. C. S. C.
12/11/96
Central Adminstrative Tribunal
Guwahati Bench

3) That with regard to the statements made in paragraph 6.3 of the application the Respondents beg to state that, they have no comments the same being matters of record. The Respondents further beg to state that, the applicant has not completed service for 240 days at a stretch as required for being eligible for regular appointment in the Central Government Department observing Six days a week and hence working for 216 days in one spell (there was a break between the first spell of work putting 56 days of service and the Second spell putting 216 days of service) does not make her entitled for regular appointment in terms of DPT OM No.49014/16/89 Estt.(C), dated 16.7.90, as stated by the petitioner herself in her representation dated 8.6.95 (Annexure-5 of the said original application).

Annexure -R¹ is the Photocopy of the DPT O.M. No.49014/16/89 Estt.(C), dated 16.7.90.

4) That with regard to the statements made in paragraph 6.4 of the application the Respondents beg to state that they have no comments the same being matters of record. The Respondents further beg to state that they have made no commitment to offer any regular appointment in future to her.

5) That with regard to the statements made in paragraphs 6.5 & 6.6 of the application the Respondents beg to state that they have no comments the same being matters of record.

(Contd.)

6) That with regard to the statements made in paragraph 6.7 of the application the Respondents beg to state that the same is not correct. The petitioner has not rendered continuous services for 240 days having Six days a week so, she has not fulfilled the minimum requirements for becoming eligible for consideration of regular appointment in the Department.

7) That with regard to the statements made in paragraph 6.8 of the application the Respondents beg to state that they have no comments the same being matters of record. The Respondents further beg to state that the applicant having approached the Hon'ble Tripunal on the same course of action the principle of res judicata applies in this case, and as such, the application is liable to be dismissed.

8) That with regard to the statements made in paragraph 6.9 of the application the Respondents beg to state that it is not correct that there are two posts of Group D are lying vacant but only one post of peon is vacant which would be interviewed and no date is fixed yet for the said interview. It is, however, stated that the candidates who have been sponsored by the Employment Exchange they would be called for interview. As directed by the Hon'ble Tribunal in O.A. No. 11/93 the applicant will also be called for interview though, her earlier case has been dismissed by the Hon'ble Tribunal.

(Contd.)

9) That with regard to the statements made in paragraph 6.10 of the application the Respondents beg to state that they have no comments. The applicant will be called for interview when the interview will held.

10) That with regard to the statements made in paragraph 6.11 of the application the Respondents beg to state that the directive given in the judgment dated 16.2.90 in O.A. No. 2306/89(Raj Kamal & others -Vs- The Union of India & others) as cited by the petitioner in O.A. No. 93/96 and also a number of other judgments of different courts cited in the instant petition, will be kept in view while filling the post of Group D (Peon un-reserved) at ZSI, Shillong Station, the interview for which is in offing, after varifying the original orders and if the instant case is similar to those cases cited by the petitioner.

11) That with regard to the statements made in paragraph 6.12 of the application the Respondents beg to state that for considering the candidature of the applicant for appointment in the Group D post of Peon (unreserved) has been given to the O/C, ZSI, Shillong.

12) That with regard to the statements made in paragraphs 6.13 & 6.14 of the application the Respondents beg to state that there is a gulf of difference

between the Artists of Door Darshan and Group D employees in Z.S.I. and hence at the moment there is no proposal for preparing scheme.

13) That with regard to the statements made in paragraph 7 regarding the reliefs sought for in the application the Respondents have already clearly stated that her case will be considered for appointment, if she succeeds in the interview she is likely to get the appointment. The Respondents further state that, no injustice has been done to the applicant.

14) That with regard to the statements made in the grounds regarding the reliefs sought for the respondents beg to state that as stated earlier the applicant's case will be considered at the time of interview and if she succeeds then she will be appointed in the said post.

15) That with regard to the statements made in paragraph 8 of the application the Respondents beg to state that as per interim Order she will be called for interview for the post of peon and other post is kept in abeyance by the administrative Ministry.

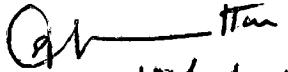
16) That with regard to the statements made in paragraphs 9, 10, 11, 12 & 13 of the application the Respondents have no comments.

(Condt.)

Verification

I, Shri S.J.S. Hattar, Scientist-^B, ^{SD & officer-in-charge.} Eastern Regional Station, Z.S.I., Shillong do hereby solemnly declare as authorised that the statements made in above Written Statements are true to my knowledge, belief & information.

And I sign this verification on this 12 th day of November, 1996 at Shillong.


12/11/96

Officer-in-Charge,
Eastern Regional Station,
Declarant, Geological Survey of India,
Shillong-3

Anonme - R/16/15

Re: Regularisation of
Gr. C Casual
Workers

V.V.I. No. R. 23014/36/90-PCG

Bharat Sarkar/Government of India

Paryavaran Aur Van Mantralaya

Ministry of Environment & Forests

Department of Environment, Forests & Wildlife

circulation

Kohli
18/9/90 J.B.

Paryavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110 003.

Dated the 23rd August, 1990

To

All Associated Offices/
Public Sector Undertakings/
Autonomous Bodies.

1661

8.10.90

Subject: Regularisation of casual workers recruited to perform
duties of Group 'C' posts - age/employment exchange
procedure relaxation regarding.

...

Sir,

I am directed to forward herewith a copy of Deptt. of Personnel & Training Office Memorandum No. 49014/16/89-Estt. (C) dated 16.7.1990 on the subject mentioned above for information, guidance and necessary action.

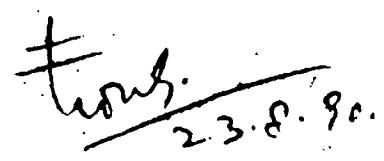
Received on
8.10.90
Aman (Atg.)
8.10.90

Yours faithfully,


(K.K. KOHLI)
SECTION OFFICER

COPY TO:

1. DS(GPD)/DS(NWDB)/CA(PAO).
2. All Officers and sections.
3. Staff Side Representatives.


(K.K. KOHLI)
SECTION OFFICER

DS (E) for necessary information
& putting up the complete list
of > C. 1. Casual. Drivers & other

50
No. 49014/16/89-Estt. (C)
Government of India
Ministry of Personnel,
Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi the 16 July, 1990

OFFICE MEMORANDUM

SUB: Regularisation of casual workers recruited to perform duties of Group 'C' posts - age/employment exchange procedure relaxation regarding.

The undersigned is directed to refer to Ministry of Finance, Department of Expenditure OM No.F.1(16)-E Coord./71 dated 15th September, 1972 which stipulates that employment of casual hands to do clerical work or stenographic work on daily wages is irregular and should not, in any circumstances, be resorted to and the practice of employing class III staff on daily wages should be terminated forthwith. It has been observed that inspite of these instructions various Ministries/ Departments continue to engage casual workers for performing duties and functions of Group 'C' posts and subsequently proposals are made for regularisation of these casual workers. The matter has also been raised in a meeting the Standing Committee of the National Council held on 3.10.89 in which the Staff Side made a suggestion that these casual employees may be allowed age relaxation to the extent of completed years of casual service so that they can compete with outsiders for direct recruitment against Group 'C' posts. The Staff Side desire that the condition regarding sponsorship from employment exchange may also be waived in their case.

2. The matter has been considered and it has been decided that casual workers, who have been engaged for performing duties of Group 'C' posts, may as a one time measure, be allowed age relaxation to the extent of period of service rendered as casual worker in a Central Government Ministry/ Department or its attached/subordinate offices to enable them to appear alongwith other candidates, in the regular examinations conducted by the Staff Selection Commission for recruitment to Group 'C' posts. The relaxation in the upper age limit on the above lines will be subject to the following conditions:-

- i) The casual workers must be in employment in a Government office on the date of issue of these instructions.
- ii) He/she must have completed 240 days (200 days in offices observing 5 days a week) of service in the

...2/-

WB

against Group 'C' posts subject to fulfilment of conditions mentioned in para 2 above. These casual employees will also have to compete successfully in the examination/selection test prescribed for the post. Wherever condition for sponsorship through employment exchange is prescribed for recruitment to such posts, this will not be insisted upon in case of casual worker already engaged against the post.

9. The services of those casual workers who do not appear in the examination/selection test inspite of age relaxation or who are not successful in the examination/test, will be terminated immediately after the declaration of the result of the test.

10. It is once again reiterated that there is a complete ban on engagement of casual workers for performing duties of Group 'C' posts and hence no appointment of casual worker should be made in future for performing duties of Group 'C' post. If any deviation in this regard is committed, the administrative officer incharge, in the rank of Joint Secretary or equivalent will be held responsible for the same.

Sd/-
(Manjit S.Bali)
Deputy Secretary to the govt. of India.

Attul
Ita
Gh
12/11/96

Officer-in-Charge,
Eastern Regional Station,
Zoological Survey of India
Ghong3

immediately two preceding calendar years.

iii) He/she must be educationally qualified for the post for which appointment is sought.

3. The casual workers who are working against any Group 'C' posts other than that of Stenographer and who satisfy the conditions as laid down in para 2 above shall be eligible to appear in the examination conducted by the Staff Selection Commission for recruitment for the post of Lower Division Clerk.

4. The casual workers who are employed against the posts of Stenographers and satisfy the conditions as laid down in para 2 above shall be eligible to appear in the examination conducted by the Staff Selection Commission for recruitment to the post of Stenographer.

5. The instructions contained in this OM are not applicable to casual workers doing work of purely seasonal or casual nature or those working against Group 'D' posts.

6. The relaxation given to the casual workers will be available only for next examination to be conducted by Staff Selection Commission for the recruitment to the posts of LDCs and Stenographers. It will be the responsibility of the administrative Ministries/Departments where the casual worker is employed at the time of issue of these instructions to ensure that the casual workers intending to appear in the relevant examination conducted by the Staff Selection Commission satisfy all the conditions prescribed above. Such certificate shall be issued under the signature of an officer not below the rank of Deputy Secretary or equivalent. In case such certificate is not enclosed, the application of the casual worker is liable to be rejected.

7. The casual workers who competes successfully in the regular examination conducted by the Staff Selection Commission will be treated at par with other successful candidates and can be appointed in any Ministry/Department/Office as per the normal terms and conditions of appointment. They will have no right to make a claim for appointment only in that Ministry/Department/Office where they were employed as casual workers. In their regular appointment, they will not be entitled to any benefit for the period of service rendered by them as casual worker.

8. Casual workers employed against other Group 'C' posts for which recruitment is not done on a centralised basis, either by SSC or otherwise, shall also be given age relaxation, as a one time measure, for the purpose of their regularisation

They will, however, in addition, be paid for a National Holiday, if it falls on a working day for the casual workers.

- (viii) In cases where it is not possible to entrust all the items of work now being handled by the casual workers to the existing regular staff, additional regular posts may be created to the barest minimum necessary, with the concurrence of the Ministry of Finance.
- (ix) Where work of more than one type is to be performed throughout the year but each type of work does not justify a separate regular employee, a multifunctional post may be created for handling those items of work with the concurrence of the Ministry of Finance.
- (x) The regularisation of the services of the casual workers will continue to be governed by the instructions issued by this Department in this regard. While considering such regularisation, a casual worker may be given relaxation in the upper age-limit only if at the time of initial recruitment as a casual worker, he had not crossed the upper age-limit for the relevant post.
- (xi) If a Department wants to make any departure from the above guidelines, it should obtain the prior concurrence of the Ministry of Finance and the Department of Personnel and Training.

2. All the Administrative Ministries/Departments should undertake a review of appointment of casual workers in the offices under their control on a time-bound basis so that at the end of the prescribed period, the following targets are achieved:—

- (a) All eligible casual workers are adjusted against regular posts to the extent such regular posts are justified.
- (b) The rest of the casual workers not covered by (a) above and whose retention is considered absolutely necessary and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- (c) The remaining casual workers not covered by (a) and (b) above are discharged from service.

3. By strict and meticulous observance of the guidelines by all Ministries/Departments, it should be ensured that there is no more engagement of casual workers for attending to work of a regular nature, particularly after the review envisaged above is duly completed. Each Head of Office should also nominate an officer who would scrutinise the engagement of each and every casual worker and the job for which he is being employed to determine whether the work is of casual nature or not.

4. Ministry of Finance, etc., are requested to bring the contents of this O.M. to the notice of all the appointing authorities under their respective administrative control for strict observance. Cases of negligence in the matter of implementing these guidelines should be viewed very seriously and brought to the notice of the appropriate authorities for taking prompt and suitable action against the defaulters.

[G.I., Dept. of Per. & Trg., O.M. No. 49014/2/86-Estt. (C), dated the 7th June, 1988 and Min. of Labour, O.M. No. 53202/16/86-W.C. (M.W.), dated the 23rd August, 1988.]

Clarification.—1. It is hereby clarified that the orders contained in the aforesaid O.M. have come into force on date of issue, viz., 7-6-1988 and casual workers employed in various Secretariat offices are also entitled to payment of wages as provided in this O.M. with effect from 7-6-1988.

2. The Ministry of Finance, etc., are requested that the above clarification may be brought to the notice of all concerned for information and guidance.

[G.I., Dept. of Per. & Trg., O.M. No. 49019/7/87-Est. (C), dated the 30th May, 1989.]

2. Appointment of casual labourers to Group 'D' posts

2.1. The appointment of casual labourers to Group 'D' posts, borne on the regular establishment which are required to be filled by direct recruitment, will be made subject to the following conditions:—

(i) No casual labourer not registered with the Employment Exchange should be appointed to posts borne on the regular establishment;

(ii) Casual labourers appointed through Employment Exchange and possessing experience of a minimum of two years' continuous service as casual labour in the office/establishment to which they are so appointed will be eligible for appointment to posts on the regular establishment in that office/establishment without any further reference to the Employment Exchange.

*Officer in-charge
Employment Exchange
Zonal/Divisional
Sullana* (iii) Casual labourers recruited in an office/establishment direct, without reference to the Employment Exchange, should not be considered for appointment to regular establishment unless they get themselves registered with the Employment Exchange, render, from the date of such registration, a minimum of two years' continuous service as casual labour, and are subsequently sponsored by the Employment Exchange in accordance with their position in the register of the Exchange. (See paragraph 3 below for one time relaxation.)

2.2. A casual labourer may be given the benefit of 2 years' continuous service as casual labourer if he has put in at least 240 days (206 days in the case of offices observing 5 days week) of service as a casual labourer

It has been decided that the unskilled casual worker whose nature of work is the same as that of the regular employees may be paid at the rate of 1/30 of Rs. 750 plus DA for work of 8 hours a day with effect from 7-6-1988. The guidelines issued by the Department of Personnel Training should be strictly observed. On a reference made to them, it has been clarified as under—

(i) The persons on daily wages on regular nature of work should not be engagged. In case casual workers have been engagged to do duties of regular nature, they shall have to be paid at the minimum time-scale of pay *plus* DA for work of 8 hours a day.

(ii) The casual workers are required to be paid for the day on which they actually perform duties.

(iii) If the casual worker is called for duty on a holiday, he will have to be paid for that day. In case this holiday happens to be paid holiday for the casual worker that he will have to be allowed additional wages for the duty for that holiday.

(iv) The practice of engaging a casual worker on his weekly off day should be avoided. The question of allowing paid weekly off to casual workers in the offices following five days week work pattern is under consideration of the Department of Personnel and Training.

As for revision of rates in respect of skilled labour is concerned, the matter is being examined separately and the orders will be issued shortly. [G.I., Archaeological Survey of India, O.M. No. 27-1/86-Admin. III, dated the 15th

IN THE DEPARTMENT OF POSTS

1. Part-time and Full-time Casual Labourers.—It is hereby clarified that all daily wagers working in Post Offices or in RMS Offices or in Administrative Offices or PSDS/MIS under different designations should be engaged for a period of not less than 8 hours a day who are engaged as part-time casual labourers. All other designations should be discontinued.

Substitutes engaged against absences should not be designated casual labourers. For purposes of recruitment to Group 'D', Posts, substitutes should be considered only when casual labourers are not available. That is, substitutes, who rank last in priority, but will be above outsiders. In

(including broken periods of service) during each of the two years of service reflected in above

3. Regularization of service of casual workers, not recruited through Employee exchange before 7-5-1985, in Group 'D', posts

3.2. It is once again reiterated that no appointment of casual workers should be made in future otherwise than through the employment exchanges. If any deviation in this regard is committed, responsibility should be fixed and appropriate departmental action taken against the official.

4. Ban on engagement of casual workers for duties of Group C posts

There is a complete ban on exaggeration of casual workers for permanent jobs of Group C, posts and hence no appointment of casual workers should be made in future for permanent posts of Group C, posts. If any deviation in this regard is committed, the administrative officer in charge in the rank of Joint Secretary or equivalent will be held responsible for the same.

[G.D. 25/2001, O.M. No. 49014/16/89-Est. (C), dated the 26th February, 1990.]