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3

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

DA No. 163 196

Sri Mahatab Rai Applicant(s)

VS-  
Union of India & Ors Respondent(s)

Mr B K Sarma, B Mehta, S Sarma Advocates for the applicant(s)

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

Office Notes

Date

Courts' Orders

23.8.96

Mr S.Sarma, learned counsel for the applicant and Mr A.K.Choudhury, learned Addl.C.G.S.C for the respondents.

Mr Sarma moves this application under Section 19 of the Administrative Tribunals Act, 1985. His grievance in this application is that though he had been working as a casual employee since 5.7.1987 till date with some artificial breaks in between the applicant has not been granted temporary status by the respondents. It has also been submitted by him that the respondents have not granted him the relief though he had made representation dated 17.4.96 and a reminder dated 14.6.96.

Heard Mr Sarma and Mr Choudhury and perused the application and reliefs sought. This application is disposed of with the following direction.

The applicant is in service as on today and it has been stated that he was also in service as on 1.9.93. The applicant is directed to submit a fresh representation before the respondents within one

This application is in form and within time C.F. of Rs. 50/- deposited vide

IPO/ED No 346435

Dated ... 23.8.96

S Sarma  
Dy. Registrar, 23/8/96

23/8/96

Copy of the orders issued to the parties vide D.No. 2759 to 2763 dt. 23.8.96

23/8/96

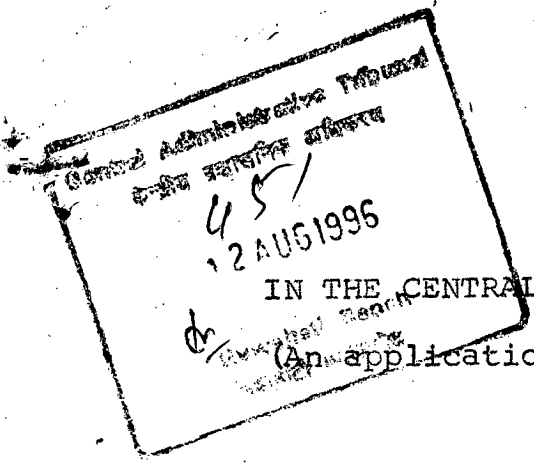
23.8.96 month from today seeking for reliefs before the respondents in terms of the Office Memorandum No.51016/2/90-Estt(C dated 10.9.1993 issued by the Govt. of India, Ministry of Personnel, Public Grievances & Pension (Department of Personnel & Training). Further the respondents are directed to dispose of the representation of the applicant keeping in view the aforesaid Office Memorandum and the relevant facts of his case. The final order of the respondents should be issued by the competent authority within 3 months from the date of receipt of the representation of the applicant.

Application is disposed of. No order as to costs.

*60*  
23/8/96  
Member

16/8

4



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH  
 (An application under Section 19 of the Administrative  
 Tribunals Act, 1985).

Title of the case : O.A. No. 163 1996  
 Shri Mahatab Rai ..... Applicant

-versus-

The Union of India & Ors. ... Respondents.

I N D E X

*Copy already  
 Revised on  
 A.K. Chowdhury  
 A.K. Chakraborty  
 AH. CG SC.  
 12.8.96  
 Sumin Sen  
 12.8.96*

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For use in Tribunal's Office

Date of filing : 12-8-96

Registration No.: OA 163/96

*[Signature]*  
 12/8/96  
 Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH

O.A. No. 163 /1996

BETWEEN

Sri Mahatab Rai

Casual Worker, Economic Geology

Division, N.E.R., G.S.I.,

Shillong

..... Applicant

AND

1. The Union of India

represented by the Secretary

to the Govt. of India,

Ministry of Steel & Mines,

Department of Mines, Shastri Bhawan,

NEW DELHI-110011

2. The Director (Admn),

Geological Survey of India,

4 Chowringhee Lane,

Calcutta.

3. Deputy Director General

Geological Survey of India,

North Eastern Region,

Shillong-793993

Meghalaya

..... Respondents

Contd...

Filed by Mr. applicant  
Through *[Signature]*  
12.8.96

DETAILS OF APPLICATION

1. Particulars of orders against which this Application is made.

The instant application is directed not against any particular order but is preferred making grievance against the apathy shown by the respondents in respect of the benefits admissible to the applicant under Rules as Casual Workers and deemed refusal to conferring temporary status.

2. JURISDICTION OF THE TRIBUNAL :

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

3. LIMITATION

The applicant further declares that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

That the applicant is a citizen of India and is entitled to all the rights and privileges guaranteed by the Constitution of India and the laws framed thereunder from time to time.

4.2 That the applicant states that he has been working in the Department of Geological Survey of India, North Eastern Region, Shillong since 5.7.1987 as Messenger/Durwan/Charcoal Burner on a fixed pay of Rs. 35/- per day on 'No Work No Pay' basis and no formal appointment letter has ever been issued to him. However, he has been

discharging his duties to the satisfaction of all concerned. He has got the requisite number of working days so as to get the benefit of temporary status as well as benefits as admissible under the relevant rules and also as per the dictum laid down by the Apex Court. The petitioner craves leave of this Hon'ble Tribunal to refer to the relevant rules as well as the decisions of the Apex Court in support of his contentions.

4.3. That the applicant states that no formal appointment letter has ever been issued to him but from the certificate dated 24.5.89 issued by Assistant Geologist, GSI, NER, Shillong it can be assumed that he has been working in the said organisation with effect from 5.7.89 as Casual Worker.

A copy of the certificated dated 24.5.89 is annexed herewith and marked as Annexure-1.

4.4. That the applicant states that as casual worker he has to discharge the duties of Messenger/Durwan/Charcoal Burner as required according to time and place of work.

4.5 That the applicant states that he has not been extended the minimum of the wages as he is entitled to and is being paid Rs. 35/- per day on 'No Work No Pay' basis.

4.6 That the applicant states that although he has been working since 5.7.87 with artificial breaks to

show discontinuity in service he has been engaged more than 240 days in a year from 1993 to 1995 and onwards. A statement of his attendance to duty on each year from 1989 to 1996 will show that his services has been regularly utilised for more than 240 days in a year with effect from 1993.

A copy of statement showing the year-wise attendance is annexed herewith and marked as Annexure-2.

4.7 That the applicant states that he made a representation dated 17.4.96 followed by reminder dated 14.6.96 requesting the Director General, GSI, NER, Shillong for considering his case for conferring temporary status on him with effect from 1.9.93 but the said authority is silent over it and the matter is without any favourable response.

A copy of the representation dated 14.6.96 is annexed as Annexure-3.

4.8 That the applicant states that two such workers viz. (1) Shri P. Anamana and (2) Shri M.Kharluki have been granted temporary status with effect from February, 1996 even though it appears that one of them has been engaged in the year 1991 but the case of the applicant has not been considered though he is senior to him and fulfills the required conditions for being considered for conferring on temporary status of casual workers with wages at daily rates with reference to minimum pay scale

for a corresponding regular Group 'D' officer including D.A., H.R.A. & CCA.

4.9 That the applicant states that he has been working since 5.7.87 without any prospect or improvement in his service condition and the minimum just and equitable relief he claims is conferment of temporary status as per Central Govt's own scheme pending absorption in Group-D posts.

4.10 That the applicant~~s~~/ states that he made several representations before the authority for consideration of his case for granting him the lesser benefit of conferring temporary status and further absorption in Group-D post but the authority has not taken any action to materialise it as per their own scheme.

4.11 That the applicant states that the relief as sought for by the applicant is a fundamental right and denial of the same amount to infringement of the same.

5.       GROUND(S) FOR RELIEF(S)  

- i. For that the applicant has been working for several years without any service benefits or security.
- ii. For that the ~~applicant~~ applicant has been working continuously with effect from 5.7.87 he has not been granted temporary status and thereafter consequential regularisation to Group-D posts with minimum scale of pay prescribed for such service.

*[Handwritten mark]*

- 10
- iii. For that the Central Govt. has its own scheme to regularise the services of the casual worker like the applicant but the same has not been followed.
  - iv. For that the fundamental and other legal right of the applicant has been infringed.
  - v. For that a junior to the applicant has been considered for granting temporary status depriving the applicant.
  - vi. For that the applicant has the required eligibility to be granted the lesser benefit of conferring temporary status and consequential regularisation.
  - vii. For that in any view of the matter denial of temporary status amounts to violation of the Constitutional right which requires to set right.

6. DETAILS OF REMEDIES EXHAUSTED

That the applicant declares that he has taken recourse to all the remedies available to him and has failed to get any relief and as such, there is no alternative remedy open to him than to approach this Hon'ble Tribunal.

7. MATTER NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT/TRIBUNAL.

That the applicant declares that he has not previously filed any application, Writ petition or

suit regarding the matter in respect of which this application has been made, before any court, authority or any other Bench of this Hon'ble Tribunal nor any such application, Writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances as stated herein above, the applicant prays for the following reliefs :

1. To direct the respondents to confer on the applicant the lesser benefit of temporary status and further absorption in Group-D posts and pay at daily rates on the basis of minimum pay scale for a regular Group-D official including D.A., H.R.A. and C.C.A. etc.
- ii. To pass any other order or orders as Your Lordships may deem fit and proper.

9. INTERIM RELIEF PRAYED FOR :

Pending disposal of this O.A. the above named applicant prays an interim order directing the respondent to consider the case of the applicant towards conferring the temporary status to the applicant along-with consequential regularisation.

10. DETAILS OF INDEX

An Index showing the particulars of the documents is enclosed.

11. PARTICULARS OF THE I.P.O.

- i. I.P.O. No. : B 89 346435
- ii. Date of Issue : 2. 8. 96
- iii. Issued from : G.P.O., Guwahati
- iv. Payable at : G.P.O., Guwahati

12. LIST OF ENCLOSURES :

As stated in the Index.

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Annexure-1

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Shri Mahtab Rai has been working as Casual Worker in Economic Geology Division of G.S.I. since 05.7.87 with lapses off and on.

Sd/- H.K.Gostami


(H.K.GOSWAMI)

Asstt. Geologist  
for Director

Geological Survey of India  
Op : Assam - Meghalaya  
Economic Geology Division  
NER, Shillong

Dated Shillong  
the 24th May '89

Attes.ed.

  
Advocate

18/96

1989

Durwan duty & Charcoal duty performed by  
Shri Mahatab Rai.

1.	16.5.89 to 31.7.89	=	77 days - D/duty
2.	27.8.89 to 24.10.89	=	90 days -do-
3.	10.7.89 to 7.9.89	=	60 days Safaiwala
4.	26.11.89 to 31.12.89	=	67 days D/duty
			<hr/>
			294 days

1990

1.	1.1.90 tp 23.1990	=	23 days D/duty (Night)
2.	1.10.90 to 29.12.90	=	90 days D/duty
3.	15.11.90 to 31.12.90	=	46 " Charcoal duty
			<hr/>
			159 days

Attested.

  
Advocate.

9/8/96

1991

1. 1.1.91 to 31.1.91 = 31 days D/duty (Morning)
2. 1.2.91 to 15.2.91 = 15 days Charcoal duty
3. 1.3.91 to 31.3.91 = 31 " D/duty
4. 1.4.91 to 30.4.91 = 30 " D/duty
5. 1.12.91 to 31.12.91 = 31 " D/duty

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138 days

1992

1. 1.2.92 to 15.2.92 = 15 days
2. 1.3.92 to 9.3.92 = 9 days
3. 21.4.92 to 27.4.92 = 7 "
4. 1.5.92 to 10.5.92 = 11 "
5. 7.7.92 to 9.7.92 = 3 "
6. 1.8.92 to 11.8.92 = 11 "
7. 6.10.92 to 29.10.92 = 24 as Lakhar Rai
8. 1.9.92 to 30.9.92 = 30 "
9. 2.10.92 to 29.10.92 = 28 "
10. 1.11.92 to 15.11.92 = 15 " as Bimal Rai
12. 11.11.92 to 27.11.92 = 17 "
13. 1.12.92 to 31.12.92 = 31 as Bimal Rai
14. 7.10.92 to 16.10.92 = 10 " as Suresh Rai
15. 19.10.92 to 24.10.92 = 6 " "
16. 27.10.92 to 27.10.92 = 2 " "
17. 15.11.92 to 31.12.92 = 46 " Charcoal duty
18. 28.11.92 to 29.11.92 = 32 " D/duty

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297 days

Attes.ed.

  
Advocate.

1993

1.1.93 to 31.1.93	= 31 days
1.1.93 to 31.1.93	= 31 " As Bimal Rai
1.2.93 to 5.3.93	= 5 days
1.3.93 to 8.3.93	= 8 days
9.4.93 to 26.4.93	= 18 days - Day duty Durwan
3.4.93 to 8.4.93	= 8 days "
1.4.93 to 20.4.93	= 20 days D/duty (Night)
1.5.93 to 13.5.93	= 13 days
1.6.93 to 3.6.93	= 3 days
1.7.93 to 7.7.93	= 7 days
1.8.93 to 12.8.93	= 12 days
1.10.93 to 10.10.93	= 10 days
11.10.93 to 21.10.93	= 11 days
16.11.93 to 30.11.93	= 15 days D/duty
15.11.93 to 26.11.93	= 12 days Charcoal duty
1.12.93 to 9.12.93	= 9 days D/duty
1.12.93 to 31.12.93	= 31 days Charcoal duty
<hr/>	
244 days	

Attes ed.

Advocate.


1994

1.	1.2.94 to 15.2.94	=	11 days Charcoal duty
2.	16.2.94 to 28.2.94	=	9 days -do-
3.	1.3.94 to 8.3.94	=	8 days -do-
4.	9th, 10th, to 18 March '94	=	7 days Durwan duty
5.	21.3.94 to 31.3.94	=	10 days -do-
6.	1.1.94 to 31.1.94	=	31 days Safaiwala duty
7.	2.1.94 to 30.1.94	=	29 days Durwan duty
8.	8.1.94 to 27.1.94	=	18 days Double D/duty
9.	1.5.94 to 7.5.94	=	7 days D/duty
10.	1.5.94 to 17.5.94	=	17 days Safaiwala duty
11.	20.6.94 to 27.6.94	=	8 days durwan duty
12.	1.7.94 to 16.7.94	=	16 days (Day D/duty)
13.	1.7.94 to 23.8.94	=	54 days Night D/duty
14.	1.8.94 to 23.8.94	=	23 days Day D/duty
15.	1.10.94 to 26.10.94	=	26 days Day D/duty
16.	28.10.94 to 31.10.94	=	4 days Night D/duty
17.	13.10.94 to 17.10.94	=	5 days Evening D/duty
18.	31.10.94 to 14.11.94	=	15 days Durwan duty
19.	15.11.94 to 15.2.95	=	90 days Charcoal duty

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388 days

Aites.ed.

  
Advocate.

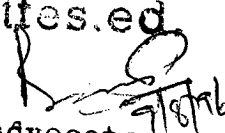
1995

1.	1.1.95 to 31.1.95	= 31 days as Bimal Rai (Charcoal duty)
2.	1.2.95 to 15.2.95	= 15 days as -do-
3.	1.2.95 to 28.2.95	= 28 " D/duty By name
4.	8.3.95 to 8.4.95	= 32 days By name
5.	9.4.95 to 30.4.95	= 22 days By name (Day) duty
6.	9.4.95 to 14.4.95	= 6 days Night duty
7.	1.5.95 to 31.5.95	= 31 days Day duty
8.	1.5.95 to 31.5.95	= 31 days Night duty
9.	19.6.95 to 8.7.95	= 20 days as Dhaneshwal Lal Rai
10.	13.7.95 to 1.8.95	= 20 days as Sipahi Rai
11.	1.7.95 to 20.7.95	= 20 days By name
12.	1.8.95 to 24.8.95	= 24 days By name
13.	1.10.95 to 9.10.95	= 9 days By name
14.	1.9.95 to 16.9.95	= 16 days By name
15.	1.10.95 to 10.10.95	= 10 days as Ram Pravash Rai D/duty
16.	15.11.95 to 16.11.95	= 16 days as Bimal Rai Charcoal duty
17.	15.11.95 to 30.11.95	= 16 days as Bimal Rai
18.	28.11.95 to 7.12.95	= 10 days By name

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 357 days

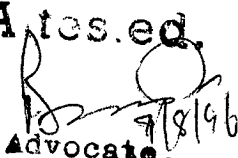
Attested


 Advocate.

10

		D/duty day
1.	1.1.96 to 31.1.96	= 31 days as Bimal Rai
2.	2.1.96 to 31.1.96	= 30 days as <del>Bimal Rai</del> Doyananda Rai Charcoal duty
3.	8.1.96 to 8.2.96	= 32 days D/duty Night by Name
4.	1.2.96 to 15.2.96	= 15 days as Bimal Rai Charcoal duty
5.	1.3.96 to 31.3.96	= 31 days Mahatab Rai
6.	1.4.96 to 30.4.96	= 30 days -do-
7.	1.5.96 to 31.5.96	= 31 days -do-
8.	1.6.96 to 30.6.96	= 30 days -do-

A tes. ed.

  
Advocate.

To

The Dy. Director General  
Geological Survey of India  
North Eastern Region,  
Shillong

Sub : Temporary Status of Casual worker.

Respected Sir,

With reference to my application dated 17.4.96 I would like to say that my case for the Temporary status w.e.f. 1.9.93 may please be considered.

Yours faithfully,

sd/- Mahatab Rai (in Hindi)

14.6.96

(Mahatab Rai)  
Casual Worker  
GSI, NER, Shillong

Attested.

Advocate