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CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH  
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

OA No. 175196

Sri Parama Das Applicant(s)

vs  
Union of India & Ors. Respondent(s)

Mr. P. P. Saxena Advocates for the applicant(s)  
" A. K. Roy

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

Office Notes Date Courts' Orders

This application is in  
form and which was  
C. F. of the for  
deposited in  
346648  
Dated ... 22/8

6 N. Saini  
22/8

27.8.96

Learned counsel Mr. A.K.Roy for the applicant.

Mr. A.K.Choudhury, learned Addl.C.G.S.C. for the respondents.

Mr. A.K.Roy moves this application under Section 19 of the Administrative Tribunals Act, 1985 seeking for regularisation of service of the applicant who was a casual employee under SDO Telegraphs, Guwahati. It has been stated that he was in service with artificial breaks from April 1987 to May 1993. Heard Mr. Roy and Mr. Choudhury. I consider that this application needs not be admitted for scrutiny and decision but it is be disposed of with the following directions:

The applicant is directed to submit a fresh representation within one month from today before the competent authorities of the respondents in terms of the Circular No. 269M/93-STW-II dated 17.12.93 issued by the Department of Telecommunications, New Delhi (Annexure B) stating his facts fully and requesting the respondents for regularisation of his service. It is also directed that the competent authorities of the respondents shall consider and dispose of the representation of the applicant on merit keeping in view the aforesaid circular dated 17.12.93 and the relevant facts

28.8.96

Copy of order issued to the parties along with the parties counsel vide D.No 2878 to 2883 of 28.8.96

28/8

O.A. No. 175 of 1996

27.8.96 pertaining to the service of the applicant. The final order should be communicated by them to the applicant within 3 months from the date of receipt of the fresh representation if any submitted by the applicant.

The application is disposed of in terms of the above order. No order as to costs.

Copy of the order be supplied to both the counsel of the parties.

*Copy of the order dated 27-8-96 supplied to the BOTH parties.*

*M 27/8/96*

trd  
*M*  
27/8

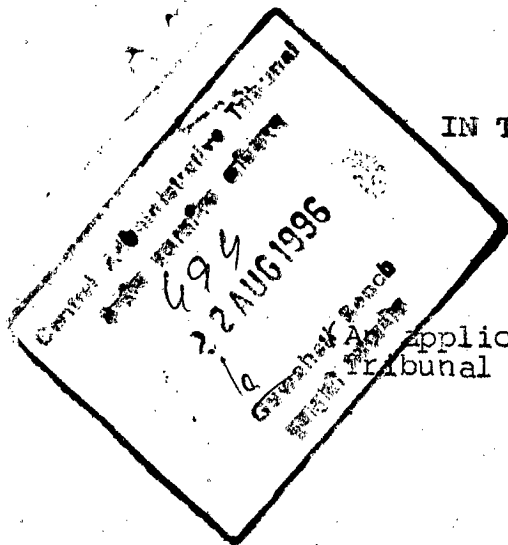
*60*  
27-8-96  
Member

22/8

A

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH : GUWAHATI



Application under Section 19 of the Administrative Tribunal Act 1985)

O. A. NO. 175 /1996.

Shri Parama Das : Applicant.

- Versus -

Union of India & Ors ; Respondents.

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For use in the Tribunal Office :-

Registration No. OA 175/96

Dated 22-8-96

[Signature]  
Signature. 22/8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH : GUWAHATI

Filed by the applicant  
through -  
A.K. Ray  
Advocate.

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

- BETWEEN -

Shri Parama Das, Son of Shri  
Babin Das, Resident of Nijhara Park,  
Chandmari, Kalakpur, Guwahati-3.

..... Applicant.

- AND -

1. Union of India, represented by  
the Secretary, Department of Tele-  
Communications, Govt. of India,  
New Delhi.-1.
2. Telecom District Manager, Kamrup,  
Ulubari, Guwahati - 781007.
3. Divisional Engineer (Planning & Admb.)  
Office of the Telecom District Manager,  
Kamrup, Ulubari, Guwahati - 781007.

..... Respondents.

1. Particulars against which the application is made :-

This application is made against the illegal action of the respondents in not taking steps for regularisation of service of the Petitioner as per the Circular under No. 269-4/93-STN-II dated 17.12.93 issued by the Asstt. Director General (STN), New Delhi.

Cont ... 2.

2. Jurisdiction of the Tribunal :-

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

3. Limitation :-

The applicant also declares that this application is made within the limitation period as laid down in Section 21 of the Administrative Tribunal Act 1985.

4. Facts of the Case :-

(i) That, the applicant is a citizen of India and hence is entitled to all the rights, protections and privileges guaranteed by the Constitution of India.

(ii) That, the applicant was engaged as casual labour in the Sub-Divisional Office (Telegraph) Kamrup Guwahati in the month of April 1987 and since then he worked upto March 1991 with some fictional breaks. The applicant worked with most sincerity and to the satisfaction of all concern and hence he was engaged from time to time when the respondents thinks his service is ~~xxx~~ required. Thereafter, the applicant was again engaged in the Office of T.R.A section in

in the month of April 1991 and allowed to work upto December 1991 and then again was engaged in the month of January 1992 and allowed to work upto May 1993. After, completion of every such engagement period, the respondents maintained same artificial break and then again engaged. The fact regarding his engagement as casual labour w.e.f. April 1987 to March 1991 reveals from the letter issued by the S.D.O, Telegraphs, Guwahati under Memo No. E-11/SDOT/Kamrup/95-96/11 dated 8.11.95. As the copy of the said letter is not available with the applicant, the respondents may be directed to produce the same, Regarding his engagement for the period April 1991 to Dec. 1991 and January 1992 to May 1993, the concerned officer issued certificate to him.

Two copy of the said Certificates are annexed herewith as ANNEXURE- 'A' Series.

(iii) That, in fact the applicant worked as a casual employee w.e.f April 1987 to May 1993 with same artificial break. The detail particulars about his working days are as follows :-

April '87 to Dec. '87	=	163 days
Jan. '88 to Dec. '88	=	240 days
Jan. '89 to Dec. '89	=	241 days
Jan. '90 to Dec. '90	=	242 days
Jan. '91 to March '90	=	72 days
April '91 to Dec. '91	=	240 days
Jan. '92 to Dec. '92	=	250 days
Jan. '93 to May '93	=	-

(iv) That, in the month of May 1993, the junior Accounts Officer, asked him not ~~xxx~~ to come to the Office for the time being stating he is entitled to be absorbed as regular employee on being engaged during the period between 31.3.85 to 22.6.88 for which the Govt. of India, Ministry of Telecommunication has framed a scheme for granting Temporary status and regularisation of the casual employees. That scheme is known as Casual Labour (Grant of Temporary Status and Regularisation) Scheme 1989 as has been revealed in the letter issued by the Asstt. Director General (STN)-II under No. 269-4/93-STN-II dated 17.12.93.

One copy of the said letter dated 17.12.93 is annexed herewith as ANNEXURE - 'B'.

(v) That, in pursuance to the said scheme, as framed by the Telecommunication department, Govt. of India, the detail working particulars of the applicant was sought to be sent in a proper 'Proforma' ~~xxxx~~ form by the then Asstt. Engineer (Admn.), T.D.M Office, Guwahati vide his letter No. TDM/Est-179/CL/93-94/102 dated 25.11.93 from the SDOP, Dispur.

(vi) That, the applicant states that as the SDOP, Dispur did not respond to the said letter dated 25.11.93 within the reasonable time, the Sub-Divisional Engineer (Admn.) again sought for the same from the SDOP, Diapur vide his letter under No. TDM/Est-179/CL/94-95/140

dated 7.5.94 which was again reminded by another letter dated 28.4.95, issued by the Sub-Divisional Engineer (Admn.).

(vii) That, thereafter, the necessary particulars of the applicant was sent by the S.D.O, Phones, Dispur and also by the S.D.O, Telegraphs (Kamrup), Guwahati in both financial year wise and Calender year wise as was sought by the Concerning authority.

(viii) That, the applicant states that in the meantime, the Divisional Engineer (P & A), T.D.M, Kamrup published a list of casual labours vide Memo No. TDM/Est-179/Loose/93-94/101 dated 5.4.94 conferring temporary status w.e.f. 1.2.94. In the said list, shockingly the name of this applicant was not included even though the names of some casual labours who were junior to this applicant and who were also retrenched in the same period i.e. in May 1993 were included.

(ix) That, the applicant states that as the competent authority delayed to sent the necessary working particulars of this applicant, his name was not included in the said list, although he is fully eligible to get temporary status and for regularisation as per the scheme framed for the said purpose, more-so, when his juniors have been given the same benefit.

99

(x) That, as the name of the applicant, though lately furnished by the S.D.O, Phones, Dispur and as his juniors have been extended temporary status, the competent authority is required to consider him name for the same, but the same has not been done for the reasons best known by the respondents.

(xi) That, the applicant states that as the respondents did not consider him and as not extended him the temporary status/regularising his service for a considerable period, the applicant sent a legal notice on 4.5.96 to the respondents, but till date no response has been made for any corner.

One copy of the said legal notice is annexed herewith as ANNEXURE - 'C'.

(xii) That, under the facts and circumstances, stated above, there is no other alternative way before the applicant other than to approach this Hon'ble ~~XX~~ Tribunal and hence this application. The applicant also states that the respondents are doing continuous wrong by not regularising the service of the applicant as per the scheme 1989 and hence this Hon'ble Court may interfere in this case for ends of justice.

5. Ground for Relief :-

(i) For that as per the scheme 1989, framed by the Department of Telecommunication, Govt. of India,

New Delhi, the applicant is entitled to get temporary status and regularisation and hence he can not be deprived of his legitimate claim by the respondents in any way.

(ii) For that the applicant being engaged during the period 31.3.85 to 22.6.88 and continued upto May 1993, the respondents are duly bound to grant him temporary status and regularise as per the Government Policy revealed from the Scheme 1989.

(iii) For that as a number of his juniors have been granted temporary status, the respondents can not do otherwise, but to give the same benefit at least.

(iv) For that as the applicant was engaged for a number of years together with some artificial breaks, the respondents have no legal and moral authority to through him out of service by not considering him for regularisation.

(v) For that, as the Hon'ble Apex Court and other Courts have decided in a number of cases that when an employee is engaged for a long period on Ad-hoc/Casual/Temporary basis, they shall be considered for regularisation and hence the respondents Cann't deprive the applicant for any reason whatsoever.

(vi) For that, as the respondents have availed his valuable service for a considerable period, they can't do otherwise but to regularise his service as per natural justice.

(vii) For that action of the respondents is illegal, arbitrary and hence same is not maintainable in the eye of law.

6. Details of Remedies Availed :-

That, the applicant declares that he has taken recourse to all the remedies available to him but he failed and hence there is no other alternative remedy open to him other than to approach this Hon'ble Tribunal.

7. Matters not previously filed or pending before any Court :-

The applicant further declares that he has not previously filed any application, Writ Petition or Suit regarding the matter 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. Relief sought for :-

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

(i) To direct the respondents to regularise the service of the applicant on the basis of the Scheme 1989.

(ii) To pass any other order as your Lordships may deem fit and proper.

(iii) Cost of the application.

9. Interim Relief Prayed for :-

Under the facts and circumstances, the applicant does not pray for interim order at this stage.

10. \_\_\_\_\_

11. Particulars of the Indian Postal Order :-

- (i) Indian Postal Order No. :- 09 346648  
(ii) Dated :- 5.8.96  
(iii) Payable at :- Gurgaon

12. List of Enclosures :-

As stated in the Index.

VERIFICATION

I, Shri Parama Das, Son of Shri & Nabin Das, aged about 26 years, resident of Nijhara Park, Chandmari, Kalakpur, Guwahati-781003 do hereby solemnly affirm and state that the statements made in paragraph 1 to 9 and 11 to 12 are true to my knowledge and belief and I have not suppressed any fact relevant to this case.

And I sign this verification at Guwahati on this the 7<sup>th</sup> day of August 1996.

Shri Parama Das

Signature of the Applicant.

Dated :

Place :

Cont .... 11.

ANNEXURE - A/1.

TO WHOM IT MAY CONCERN

This is to certify that Shri Parama Das, Son of Shri Nabin Das of Village- Nizarapur, Chandmari, Kailiaspur, Guwahati-3 is working at T.R.A Section, ~~Cardex~~ for the period from April 1991 to December 1991. He is a good worker.

He worked 240 days during this period.

Dayananda Mahanta  
SS/T.R.A.  
05.03.92.

Attested by  
Oklong  
Advocate  
7-8-96.

TO WHOM IT MAY CONCERN

This is to certify that Sri Parama Das, son of Sri B Nabin Das, of Village- Nizarapar Chandmari, Kailashpur, Guwahati-3 is working at TRA Section since January, 1992. He is a good worker.

I wish him every success in life.

He worked 250 days in 1992, and upto 31st May in 1993.

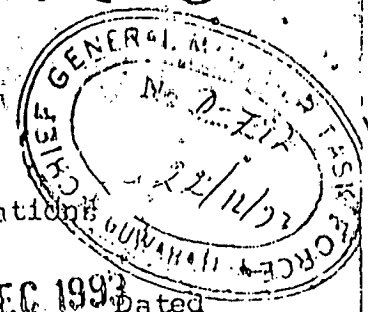
Sd/- Illegible  
~~SIXX~~  
31.5.93  
Junior Accounts Officer  
(TRA)  
Telecom Dist. Manager  
Guwahati-7

Attested by  
M. Roy  
Advocate  
7.8.96

- 13 -  
Rst - 179/Ruling

Annexure - B

(5)



No. 269-4/93-STN-II  
Government of India  
Department of Telecommunications  
STN Section

New Delhi

17 DEC 1993 Dated

AM  
13/12/93  
Ruling file  
St 66-47

To

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

Subject: Casual Labourers ( Grant of Temporary Status and Regularisation ) Scheme, 1989 engaged in Circles after 30.3.85 and upto 22.6.88.

Sir,

\*\*\*

I am directed to refer to this office order No. 269-4/93-STN dated 25th June, 1993, wherein orders were issued to extend the temporary status to all those Casual Mazdoors who were engaged by the Project Circles/Electrification Circles, during the period 31.3.85 to 22.6.88 and who were still continuing for such works where they were initially engaged and who were not absent for the last more than 365 days counting from the date of issue of the above said orders.

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

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

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

.....2/-

AM  
13/12/93  
Ruling file  
St 66-47  
13/12/93  
13/12/93  
13/12/93

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5. It is further stated that the services of all the casual Mazdoors who have not rendered at least 240 days (206 days in the case of Administrative Offices observing 5 days a week) of service in a year on the date of issue of these orders, should be terminated after following the conditions as laid down in I.D. Act, 1947 under Section 25, G & H.

6. These orders are issued with the concurrence of Member (Finance) vide U.O. No. 3811/93-FA-I dated 1.12.93.

Hindi version follows.

Yours faithfully,

*S.K. Dhawan*

( S.K. DHAWAN )

ASSISTANT DIRECTOR GENERAL (ST)

4-3

*inc.*  
*16/12/93*

Copy to :-

1. All the staff members of Department JCM
2. All Recognised Unions/Associations
3. Budget/TE-I/TE-II/SEA/CWO/PAT/NGO/SR Sections of the Telecom. Commission.
4. SPB-I Section, Department of Posts, New Delhi.

NO. TF/NE/ STAFF-145/VOL. V

Dated at G4, The 30.12.93

Copy to :-

1) All DIRs & DEs under Task Force - for necessary action

2) The TDM / Gantoli - 7 - for necessary action

Attested by  
*[Signature]*  
Advocate  
7.8.96

*[Signature]*  
Sr. Assistant Director (Admin)  
Office of the Assistant Director  
Gantoli/Gandhinagar-110003.

Dated - 4th May 1996.

LEGAL NOTICE

TO,

1. Telecom District Manager, Kamrup  
Ulubari, Guwahati-781007.
2. Divisional Engineer(Planning & Admn.)  
Office of the Telecom District Manager,  
Kamrup, Ulubari, Guwahati-781007.
3. The Union of India,  
Through the Secretary, Govt. of India,  
Ministry of Communication,  
Tele Communication Department,  
New Delhi - 1.

Dear Sir,

Under instruction from my Client Shri Parama Das, Son of Shri Nabin Das, resident of Nizarapar, Chandmari, Kailashpur, Guwahati-3 claiming rights as vested upon him as per the statements as detailed below :-

1. That, my Client Shri Parama Das was engaged as a Casual labour at the Office of the S.D.O (Telegraphs) Kamrup, Ambari, Guwahati-1 on April 1987 and since then has worked continuously with only fictional break upto March 1991 at the same Office under the Telecom District, Kamrup. This fact is borne by the letter dated 8.11.95 issued vide Memo No. E-11/SDOT/Kamrup/95-96/11 issued by the S.D.O Telegraphs, Kamrup.

2. That, thereafter, my Client worked at the Office of the T.R.A Section under Kamrup Telecom District for a period from April 1991 to December 1991 after which my client was subsequently engaged from January 1992 to 31st May 1993 at the Office of the Junior Accounts Officer(TRA), Telecom District Manager, Guwahati.

Cont ... 2.

3. That, to the utter shock and surprise of my client, the Junior Accounts Officer, in the month of May, 1993 asked my Client not to come to the Office.
4. That, it is stated that my Client is entitled to be absorbed as a regular employee on being engaged during the period between 31.3.85 to 22.6.88 for which the Govt. of India, Ministry of Telecommunication has framed a Scheme under Casual Labour (Grant of Temporary Status and Regularisation) Scheme, 1989.
5. That, in pursuance to the said Scheme as framed by the Ministry of Telecommunication, the name of my client was sought to be sent in a proper "Proforma" form "X" by the Asstt. Engineer (Admn.), of the Office of the T.D.M, Guwahati vide his letter No. TDM/Est-179/CL/93-94/102 dated 25.11.93 from the S.D.O, Phones, Dispur.
6. That, again vide letter dated 7.5.94 issued by the Sub-Divisional Engineer (Admn.) Office of the T.D.M, Guwahati-7 vide Memo No. TDM/Est-179/CL/94-95/140 further sought for working particulars in prescribed proforma from the SDO, Phones, Dispur which was again reminded by another letter dated 28.4.95.
7. That, thereafter the name of my Client was sent by the S.D.O, Phones, Dispur and also by the S.D.O, Telegraphs (Kamrup) Guwahati in both financial years wise and calender year wise as sought by the Concerned authority.
8. That, thereafter vide an Office order dated 5.4.94 issued vide Memo No. TDM/Est-179/Loose/93-94/101 issued by the Divisional Engineer (P & A),

T.D.M, Kamrup, Guwahati a list of casual labours was published for conferring Temporary status and for regularisation from 1.2.94. In the said list shockingly the name of my Client was not included even though name of some casual labours who were far junior to my client and who were also retrenched in the same period i.e. in May 1993 were included. The few names of the persons included in the said list who were retrenched in the same period are :-

1. Shri Paramananda Hijal
2. Shri Tankeswar Bora
3. Shri Hamanta Kr. Dhing
4. Shri Shambhu Soh
5. Shri Akhil Das
6. Shri Subash Srivastav
7. Shri Titen Goswami
8. Shri Satya Ranjan Barua
9. Shri Babul Ch. Deka
10. Shri Ranjit Sarkar.

9. That, due to arbitrary and capricious policy of pick and choose adopted by you, my Client was deprived from his legitimate claim for regularisation even though he is entitled under the said scheme of 1989 as framed by the Ministry of Telecommunication.

10. That, instead of regularising the service of my client, you are ~~ka~~ making an unnecessary delay by hanging the matter by seeking clarification one after another even though the name of my Client was forwarded by the S.D.O, Phone, Dispur in proper format as sought by you. This action on your Part is not only illegal but also wholly unjustified and for which you are wholly responsible.

11. That, appointing persons according to your own whims and caprice, thereby denying my Client from his legitimate claim for regularisation is not only arbitrary and illegal but also violative of the scheme as issued by the Department of Telecommunication.

12. That, inspite of several reminders dated 1.6.93 and 15.7.93 and not to speak of repeated follow up visits, you have not regularised the service of my client for which my client has suffered heavy loss, being the salary from 1993 June when the service of other juniors Casual Labours were regularised and also my client was subjected to mental harassment for your arbitrary illegal action.

13. That, my client is entitled to full pay and allowances from the date his juniors were absorbed and regularised.

Under the circumstances stated above, I give you notice to appoint my Client as a regular appointee from the date his junior/similarly situated casual labour as stated in para 8 were regularised under the scheme of Regularisation framed in 1989 with full Service benefit and allowance including backwages within 30 days the date of receipt of this notice failing which I have a clear instruction to approach appropriate Court for the same and for which you will be saddled for all the cost and the same will be done without any further reference to you.

Please Note.

Yours faithfully,

( R.P. Sarmah )

4.5.96

Attested by  
A.Ram  
Advocate  
7.8.96.