

CENTRAL ADMINISTRATIVE TRIBUNAL

ALIAHABAD BENCH

Dated: This the 11th day of September, 1995

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

I. Original Application No.504 of 19993

1. Giteshwar Prasad Singh S/o Sri Dharam Nath Singh, resident of 70 CC DA(P) Colony Panappa Road, Allahabad.
2. Chitra Sen Upadhyaya S/o Sri I.P. Upadhyaya, 348/223-A, Lukerganj, Allahabad.
3. Rajendra Prasad Dixit S/o Sri Ram Ayan Dixit R/o 340/273-A, Lukerganj, Allahabad.
4. Prabhakar Pandey, S/o Sri Ram Dhari Pandey, 84/108, Chaukhandi, Kyadganj, Allahabad.
5. Chakra Dhar Misra, S/o Sri Jagdish Pd. Mishra, 41, Motilal Nehru Road, Prayag Station, Allahabad.
6. Kailash Prasad Rawat S/o Sri MataBhikh Prasad, R/o MIG 141, Preetam Nagar, Sulemsarai, Allahabad.
7. Prabha Shanker Tripathi S/o Sri Purshottam Tripathi, R/o 13/1, Rambagh, Allahabad, District Deoria.
8. Chandra Shekhar Dixit, S/o Sri M.N. Dixit, R/o Village and Post Bara Dixit, District-Deoria.
9. Yogendra Singh S/o Late Vijai Narain Singh, R/o 330/ Madhwapur, Bairahna, Allahabad.
10. Anil Kumar Agnihotri, S/o Shankar Lal Agrahari, R/o 1112, Seho Nagar, Allahpur, Allahabad.
11. Mata Sewak Pandey S/o Sri Bhagwan Prasad, R/o 61/4, Labour Colony, Allahpur, Allahabad.
12. Arun Kumar Misra, S/o Sri Badri Prasad Misra, R/o Village Mahakani Post Katra, Mediniganj, District Pratapgarh.
13. Ram Sukh Yadav S/o Nankoo Yadav R/o Village Khajohari, Post Katra Mediniganj, District-Pratapgarh.
14. Smt. Poonam Agrawal, W/o Sri G.K. Agrawal, R/o 4, Gujrati Mohalla, Allahabad

By Sri P. Khanna

..... Applicants

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Versus

1. Union of India through the Secretary, Ministry of Home Affairs, New Delhi.
2. The Registrar General and Census Commissioner, Government of India, Ministry of Home Affairs, 2-A, Man Singh Road, New Delhi.
3. The Director, Census Operations, U.P., 6, Park Road, Lucknow.
4. Regional Deputy Director of Census, Operation, Allahabad.

By Amit Sthalekar

..... Respondents

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II. Original Application No.505/1993

1. Virendra Kumar, S/o Ram Bali Ram R/o Village Behra, Post-Behra, District-Jaunpur.
2. Vijay Bahadur S/o Sri Pancham R/o Sri Chhatarpur, Post-Kutir Chakra, District-Jaunpur.
3. Paujdar Ram S/o Sri Shiv Murti Ram, R/o Village-Kohari, Post-May, District-Jaunpur.
4. Yogendra Prasad, S/o Sri Chote Lal R/o Village Sunderpur, Post-Office-Etayai, District-Jaunpur.
5. Rai Sahab S/o Chet Narain Yadav, Resident of Village Mahreb Post-Pureba, District-Jaunpur.

By Sri P. Khanna

..... Petitioners

Versus

1. Union of India through the Secretary, Ministry of Home Affairs, New Delhi.

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2. The Registrar General and Census Commissioner, Government of India, Ministry of Home Affairs, 2-A, Man Singh Road, New Delhi.
3. The Director, Census Operations, U.P., 6, Park Road, Lucknow.
4. Regional Deputy Director of Census, Operation, Varanasi.

By Sri Amit Sthalekar

..... Respondents

O/R DUE R

By Hon'ble Mr. S. Das Gupta, A.M.

The above cases are being disposed of by this common order as they involve the identical question of law and facts.

2. These O.A.s. were filed under Section 19 of the Central Administrative Tribunal Act, 1985 seeking the relief or a direction to the respondents to regularise the services of the applicants from the date they have completed one year of service and also to prepare a suitable scheme for the said purpose of absorption of the applicants.
3. The applicants were appointed on different dates in 1991 in the Directorate of Census Operation in connection with the census of 1991. Their services came to an end on 31.12.1992. The applicants' case is that as they have completed more than 240 days in one calendar year, therefore, they were entitled to one month's notice under Section 25-F of the Industrial Disputes Act. It is also stated that

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since the census work has not yet been completed in the department, there was no justification for terminating the services of the applicants with effect from 31.12.1992. They further stated that work is still continuing and the posts are still available, therefore, the applicants have been illegally deprived of the benefit of their continuous service and the action of the respondents is violative of Article 14 and 16 of the Constitution.

4. It has been further averred that in the case of daily rated casual employees under Post and Telegraph Department Vs. Union of India and Others, respondents were directed to prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the Post and Telegraph Department. It is also stated that the said judgement of the Supreme Court was followed in the case of Income Tax Department State Welfare Association Vs. Union of India and Others. The applicants have, therefore, prayed that a similar policy be promulgated by the respondents and the services of the applicants be regularised.

5. It appears from the record that the Lucknow Bench of the Tribunal in O.A. No.385/91 directed the respondents to frame a scheme within three months for regularisation of 900 employees appointed for 1981 census. Similar direction was given in O.A. No.491/91 for framing a scheme for absorption of daily rated employees of the census department.

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Similar directions were given by several other Benches. It appears that the Union of India had filed SLP in the Supreme Court challenging the decisions. The Supreme Court has since decided this SLP and a copy of the order passed by the Supreme Court has been annexed by the respondents to the affidavit which has been filed. The operative portion of the said order dated 24.2.1995 reads as follows:-

6. "ENDS OF JUSTICE WILL be met if the Directorates of Census Operations, U.P. is directed to consider those respondents who have worked temporarily in connection with 1981 and/or 1991 census operations and who have been subsequently retrenched for appointments in any regular vacancies, which may arise in the Directorate of Census Operations and which can be filled by direct recruitment. If such employees are otherwise qualified and eligible for these posts. For this purpose the length of temporary service of such employees in the Directorate of Census Operations should be considered for relaxing the age bar, if any, for such appointments. Suitable rules may be made and conditions laid down in this connection by the appellants. The appellants and/or the Staff Selection Commission may also consider giving weightage to the previous service rendered by such employees in the Census Department and their past service records in the Census Department for the purpose of their selection to the regular post. It is directed accordingly. The appellants have, in

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their written submission, pointed out that as of now, 117 posts are vacant to which direct recruit can be appointed. They have also submitted that out of these posts, there were 88 vacant posts of data entry operator, Grade B, which has been advertised for being filled up only from amongst the retrenchedes of 1981, 1984, and 1991. As per Recruitment Rules, only those retrenchedes were eligible to apply, who were graduate and had a speed of 8000 key depressions per hour of data entry. Although approximately 800 retrenchedes applied, only 476 appeared in the test conducted by the LIC of the Lucknow Unit and only 2 applicants qualified. Out of these, only could be appointed, since the other person was overage, even after allowing for age relaxation. Whatever may be the difficulties in giving regular appointment to such retrenched employees in the past, the appellants, namely the Union of India and the Directorate of Census Operation, U.P., are directed to consider these retrenched employees for direct recruitment to regular posts in the Directorate of Census Operations, U.P. in the manner hereinabove stated. The retrenched employees, will, however, have a right to be considered only if they fulfill all other norms laid down in connection with the posts in question under the recruitment rule and/or in other departmental regulations/circulars in that behalf".

6. Since the facts in the application before us and the cases in which the directions were given by the Lucknow Bench of the Tribunal and other Benches on which SLP was filed and since decided by the Supreme

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Court by the order dated 24.2.95 are the same, the controversy is settled. We, therefore, dispose of these applications with a direction to the respondents to consider the cases of the applicants in accordance with the directions given by the Supreme Court by order dated 24.2.1995. The applications ~~are~~ disposed of accordingly by leaving the parties to bear their own costs.

RBD/

J.M.

J. Meena

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