

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

ALLAHABAD.

ORIGINAL APPLICATION NO. 556 OF 1993.

Dated: This the 17<sup>th</sup>. . . day of August, 1995.

Hon'ble Mr. S. DAS GUPTA, A.M.

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

1. Ajei Kumar    ¶ Both sons of late Sukhdeo Bihari.  
                  ¶
2. Abhai Kumar   ¶

Residents of Ardali Bazar, City Banda, district  
Banda., - Compiler Sensus Operation Region,  
Tabulation Office, Orai at Jalawn.

Applicants.

(By Advocate Sri Shree Ram Gupta)

Versus

1. The Union of India through the Secretary,  
Home Department, Central Secretariat, New Delhi.
2. Director Census Operation, U.P.,  
25, Naval Kishore Marg, Lucknow.
3. The Regional Deputy Director of Census  
Operations, Jhansi Region.
4. The Deputy Director, Census Operations, U.P.,  
37, Mahabir Pura, Orai, Jalawn.

Respondents.

(By Counsel Amit Sthalaker)

O R D E R.

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

This O.A. was filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the relief of 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 or absorption of the applicants.

Wf

2. 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 140 days in one calendar year, therefore, they were entitled to one month's notice under Section 25 (F) of Industrial Disputes Act. It is also stated that 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 Articles 14 and 16 of the Constitution.

5. 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 judgment of the Supreme Court was followed in the case of Income TAX Department Staff Welfare Association Vs. Union of India and others. The applicants have, therefore, prayed that a similar policy be formulated by the respondents and the services of the applicants be regularised.

4. It appears from the records that the Lucknow Bench of the Tribunal in OA No.385/91 directed the respondents to frame a scheme within three months for regularisation of

HL



900 employees appointed for 1981 census. Similar direction was given in DA No.491/91 for framing a scheme for absorption of daily rated employees of the census department. Similar directions were given by several other Benches. It appears that the Union of India had filed SLP in the Supreme Court challenging these 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:

"Ends of justice will be met if the Directorate of Census Operation, 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 Operation 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 record in the Census Department for the purpose of their selection to the regular post. It is directed accordingly. The appellants have, in 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

W6

8-

out of these posts, there were 88 vacant posts of data entry operator, Grade 8, which has been advertised for being filled up only from amongst the retrenched of 1981, 1984, and 1991. As per Recruitment Rules, only those retrenched were eligible to apply, who were graduates and had a speed of 8000 key depressions per hour of data entry. Although approximately 800 retrenched applied, only 476 appeared in the test conducted by the LIC of the Lucknow Unit and only 2 applicants qualified. Out of these, only one could be appointed, since the other person was average, 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 Operation, U.P. in the manner hereinabove stated. The retrenched employees, will, however, have a right to be considered only if they fulfil 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."

5. Since the facts in the application before us and 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 Court by the order dated 24.2.1995 are the same, the controversy is settled. We, therefore, dispose of this application with a direction to the respondents to

W.L.

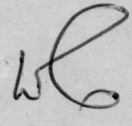


- 9 -

- 5 -

consider the cases of the applicants in accordance with the directions given by the Supreme Court by order dated 24.2.1995. The application is disposed of accordingly leaving the parties to bear their own cost.

  
J.M.

  
A.M.

VKP/