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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 67 OF 1994

Cuttack, this the 11th day of October, 1999

Madhabananda Das and others .....

Applicants

Vrs.

Union of India and others .....

Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes*

2. Whether it be circulated to all the Benches of  
the Central Administrative Tribunal or not? *No*

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
10.99

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CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 67 OF 1994  
Cuttack, this the 11th day of October, 1999

CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDL.)

....

1. Madhabananda Das, son of late Rajmohan Das, presently working as Artist, a permanent resident of village Dharpur, PO-Mahanga, District-Cuttack.
2. Sarat Chandra Mallik, son of late Bhagaban Mallik, presently working as Senior Draftsman, a permanent resident of village Banadurga, PO-Garam, District-Jagatsinghpur.
3. Sarat Kumar Nayak, son of Madhusudan Nayak, presently working as Draftsman, a permanent resident of village Balia, PO-Anakhia, Dist.Jagatsinghpur
4. Pravakar Behera, s/o late Laxman Behera, presently working as Draftsman, a permanent resident of village/PO-Ainipara, Via-Pattamundai District-Kendrapara.
5. Ghanashyam Panda, son of late Udhab Chandra Panda presently working as Draftsman, a permanent resident of village Barimundai, PO-Bagalasahi, Via-Niali, District-Cuttack.

All the applicants are working in the office of the Director of Census Operations, Orissa, Bhubaneswar

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Applicants

Advocate for applicants - Mr. Biswajit Mohanty

Vrs.

1. Union of India, represented by Secretary to Government of India, Ministry of Home Affairs, New Delhi.
2. Registrar General, India, 2/A, Mansingh Road, New Delhi-110 001.
3. Director of Census Operations, Orissa, Unit-9, PO-Saheed Nagar, Bhubaneswar, District-Khurda.

*S. J. S. Mohanty*

4. Deputy Director of Census Operations,  
Office of Director of Census Operations, Orissa,  
Unit-9, Saheed Nagar, Bhubaneswar,  
District-Khurda.

.... Respondents

Advocate for respondents - Mr. B. Dash,  
ACGSC

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this Application under Section 19 of Administrative Tribunals Act, 1985, the five applicants have prayed for quashing the order dated 28.12.1993 at Annexure-5 in which they have been reverted with effect from 31.12.1993 afternoon to the posts mentioned against their names. The second prayer is for a direction to the respondents to allow them to continue in their respective promotional posts without any break with consequential benefits.

2. Applicant no.1 joined the Census Organisation under the respondents as Assistant Compiler in 1968 and in due course was promoted to the post of Senior Artist in order dated 28.2.1991. Applicant nos.2, 3, 4 and 5 joined as Draftsmen and in due course were promoted to the posts of Senior Artist, Senior Draftsman, Artist and Senior Draftsman respectively. The case of the applicants is that according to the instructions of Department of Personnel and Training, when an officer is promoted on regular basis after following the DPC procedure he would have all the benefits that a person confirmed in that grade would have. It is stated that this principle has been adopted by the Ministry of Home Affairs in their memo dated 24.5.1988. It is further stated that the Recruitment Rules for the promotional posts do not provide

*J. Som*

for any period of probation and therefore after promotion the applicants are entitled to the benefit of confirmed holders of the promotional posts. While the applicants were continuing in the promotional posts, in the impugned order dated 28.12.1993 they have been reverted to their former posts. Applicant nos. 1 and 2 have been reverted to the posts of Artist and Senior Draftsman respectively. Applicant nos. 3, 4 and 5 have been reverted to the posts of Draftsman. At that time all the applicants were working in the Map Section in the office of Respondent no.3 and according to the applicants, respondent no.3 has made a proposal justifying retention of higher posts. But notwithstanding this, in the impugned order they have been reverted. The applicants have filed representations.

Copy of representation filed by applicant no.1 is at Annexure-A/6, but this has not yielded any result and that is why they have come up in this petition with the prayers referred to earlier.

3. Respondents in their counter have stated that five higher posts, namely, Senior Drawing Assistant - 1, Senior Artist - 2, Artist - 1 and Senior Draftsman - 1 were created in connection with the 1991 Census in the Map Section in the office of respondent no.3 and the applicants were promoted on temporary basis against these posts of Senior Artist, Senior Draftsman and Artist.

*W.Sam*  
On expiry of sanction of all the posts in connection with 1991 Census with effect from 31.12.1993, all the five applicants, who were officiating in higher posts, were required to be reverted to their previous posts as these posts were not available after 31.12.1993. Respondent

nos.2 and 3 have no power to extend continuation of these posts.

After receiving the letter from the office of Registrar General of India (respondent no.2) regarding expiry of sanction of the posts, respondent no.3, i.e., Director of Census Operation, Orissa, had requested the Registrar General to extend the sanction of the posts. But respondent no.2 had indicated in reply that the proposal for extension has been considered by the Government and on an assessment of the workload it has been found that there is no justification for extension of sanction of these posts beyond 31.12.1993. It is stated that due to reduction of establishment, respondent no.3 had no alternative but to revert the applicants to their former posts with effect from 31.12.1993. Besides the above, the respondents have made further averments with regard to payment of dues to the applicants, but it is not necessary to refer to those averments for the purpose of considering this O.A.

4. We have heard Shri Biswajit Mohanty, the learned counsel for the petitioners and Shri B. Dash, the learned Additional Standing Counsel for the respondents and have perused the records.

5. The respondents have pointed out that the applicants have been reverted to the posts earlier held by them from which they were promoted because of reduction of higher level posts. The learned counsel for the petitioners has stated that the applicants were promoted on regular basis following the DPC proceedings and therefore their promotion must be taken as regular. The orders of promotion of the applicants which have been enclosed at Annexures A/1 to A/4 also specifically indicate that these promotions were on regular basis in temporary capacity. Even in case of regular promotion, on reduction of establishment the persons holding higher posts have to be reverted and therefore no illegality is involved in such reversion.

*S. J. Jam*

The respondents have also pointed out that in spite of their moving the Registrar General of India for further extension of the sanction of higher level posts, the same had been refused on an assessment of the workload. In view of this, the order of reversion cannot be found fault with because reversion has not taken place by way of punishment but only due to reduction in establishment. It has also been pointed out by the respondents that these higher level posts were sanctioned in connection with 1991 census operation and with the close of census operation naturally the posts have been reduced. The prayer of the applicants for quashing their order of reversion is therefore held to be without any merit and is rejected.

6. The learned counsel for the petitioners has drawn our attention to the decision of the Hon'ble Supreme Court in the case of Government of Tamil Nadu and another v. G.Mohamed Ammeenuddin and others, AIR 1999 SC 2202. In that case their Lordships of the Hon'ble Supreme Court have taken note of the fact that once in a decade census operation is carried out and those persons who have registered themselves in the Employment Exchange get jobs in the Census Department and when the project is over their employment comes to an end and they are retrenched thereby losing both the employment and their position in the queue in the Employment Exchange. In consideration of the fact, the Hon'ble Supreme Court have directed Government of Tamil Nadu, the appellant before them to work out a scheme to absorb these employees in appropriate employments. It has been further directed

*J.Sam*

that while drawing up the scheme the Government may also bear in mind whether such employees can be recruited in the local authorities, quasi-governmental organisations or Government companies. It is submitted by the learned counsel for the petitioners that the applicants should be governed under the scheme if and when the same is framed and is placed before the Hon'ble Supreme Court to get their Lordships' approval.

7. The above decision of the Hon'ble Supreme Court deals with persons who have lost their employments on reduction of the establishment in the Census Organisation. In the instant case, the applicants have not lost their employment. They have only been reverted to the lower posts from which they were promoted to the higher posts which were sanctioned in connection with 1991 census. Therefore, this decision of the Hon'ble Supreme Court has no application to the case of the petitioners.

8. In the result, therefore, we hold that the applicants have not been able to make out a case for the reliefs asked for by them. The Application is held to be without any merit and the same is rejected but without any order as to costs.

(G. NARASIMHAM)  
MEMBER (JUDICIAL)

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN  
11.10.99