

CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 249 OF 1998
Cuttack, this the 12th day of September 2000

Shrimati Kanan Bala Dash ... Applicant

Vrs.

The Registrar General of India and another..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.

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(G.NARASIMHAM)
MEMBER(JUDICIAL)

Somnath Som.
(SOMNATH SOM)
VICE-CHAIRMAN
12.9.2000

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

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ORIGINAL APPLICATION NO. 249 OF 1998
Cuttack, this the 12th day of September, 2000

CORAM:

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

.....
Shrimati Kanan Bala Dash, aged about 38 years, wife of Shri Gurudas Panda, residing at Plot No.406, Nayapalli Nuasahi, Bhubaneswar-12, Orissa, ex-Lower Division Clerk, Office of the Director of Census Operations, Orissa Bhubaneswar

..... **Applicant**

Advocates for applicant - M/s K.C.Kanungo
S.Behera
R.N.Singh

Vrs.

1. The Registrar General of India, Ministry of Home Affairs, 2-A Mansingh Road, New Delhi.
2. The Director of Census Operations, Orissa, Bhubaneswar.

..... **Respondents**

Advocate for respondents - Mr.B.K.Nayak
ACGSC

ORDER

SOMNATH SOM, VICE-CHAIRMAN

In this application the petitioner has prayed for a declaration that the termination of service of the applicant and her not being allowed to appear at the Special Staff Selection Commission Examination held on 28.7.1985 are illegal and this has been done on the basis of a forged letter. She has also asked for appropriate relief.

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2. The case of the applicant is that she was serving as ad hoc LDC in the office of Director of Census Operations for a period of four years and her services were terminated in order dated 30.8.1985 (Annexure-1). During her service career she was getting usual increments, contributing to provident fund and was getting a special increment for having qualified in the Hindi Pragyan

Examination. She had earlier approached the Tribunal in OA No. 571 of 1992 which was disposed of in order dated 19.11.1992 (Annexure-2). In that O.A. the petitioner had sought for a direction to respondent nos. 2 and 3, Registrar General of India and Director of Census Operations, Orissa, Bhubaneswar to dispose of the applicant's representation within a stipulated period. The Tribunal in its above order directed respondent nos. 2 and 3 to dispose of the representation of the applicant within sixty days from the date of receipt of copy of the order through a reasoned order. Accordingly, in the order dated 20.1.1993 (Annexure-3) his representation was rejected by Director of Census Operations, Orissa (respondent no.2). The applicant has stated that as respondent no.1 did not take any action on the direction of the Tribunal, the petitioner filed a Contempt Petition against respondent no.1. In pursuance of that Contempt Petition, the office of Registrar General of India (respondent no.1) sent a reply dated 29.3.1995 (Annexure-4) rejecting the representation of the applicant. Challenging the rejection of her representation the applicant has filed further representation dated 22.5.1995 (Annexure-5) but has not been communicated any orders on this. The applicant has stated that in November 1997 she came to know from a reliable source that her services have been terminated and her candidature has been dropped from appearing at the Special Staff Selection Commission Examination held on 28.7.1985 on the basis of a wrong, manipulated and a forged letter bearing No.18/65/84-Ad.I, dated 7.5.1985 said to have been a letter issued by respondent no.1 to respondent 2. The applicant has stated that this letter has been created in the office of respondent no.2 in order to defeat the claim of the

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applicant for regularisation. The applicant has sent a lawyer's notice on 17.11.1997 (Annexure-7) to respondent no.1 praying for scrutinising the records including the relevant Issue Register but no action was taken on this. She also sent a FAX reminder through her advocate seeking action on her earlier representation within seven days, but without any result. The applicant has stated that there cannot be two letters bearing the same number on two different dates after a long gap of one month and three days issued on 4.4.1985 and 7.5.1985 and on that basis she feels that the above letter is a forged one. In the context of the above facts she has come up in this petition with the prayers referred to earlier.

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3. The respondents in their counter have opposed the prayers of the applicant. They have stated that the applicant's service was terminated in 1985 and she was not allowed to appear at the Special Staff Selection Examination in 1985. Thus the cause of action arose in 1985 and the applicant cannot agitate the same after a gap of 13 years and the petition is grossly barred by time. The respondents have stated that the letter No. 27/12/93-Ad.IV dated 29.3.1995 of the Joint Director, office of Registrar General of India (responent no.1) is not a manipulated and forged letter as has been mentioned by the applicant in paragraph 1 of her Application. An attested copy of this letter is at Annexure-R/1. They have stated that the applicant was recruited as LDC purely on temporary and ad hoc basis against the vacancy created in connection with 1981 Census Operation for the Regional Tabulation Office, Bhubaneswar, through local Employment Exchange. In the

appointment order dated 27.5.1981 (Annexure-R/2) it was made clear under clause(i) that the appointment is purely temporary and ad hoc and will not bestow on her any claim for regular appointment. Drawal of annual increment after completion of one year service or contribution to GPF and getting special increment for passing Hindi Examination have nothing to do with the nature of her ad hoc appointment. The respondents have mentioned about the earlier OA No.571 of 1992 filed by the applicant, the order of the Tribunal, and the fact that this order has been complied with by the respondents. They have stated that the Contempt Petition filed by the applicant was dismissed by the Tribunal on 12.5.1995. The respondents have stated that the contention of the applicant that letter No.18/65/84-Ad.I dated 7.5.1985 was not issued by respondent no.1 is wrong and is not based on facts. The respondents have stated that the said letter was issued by the office of Registrar General of India and on that basis action was taken by respondent no.2. The respondents have stated that the contention of the applicant two letters bearing same number cannot be issued on different dates is entirely wrong and based on the applicant's ignorance of office procedure. They have stated that two letters issued on different dates from the same file will bear the same number and different dates. They have stated that letter No.18/65/84-Ad.I, dated 4.4.1985 and letter No.18/65/84-Ad.I dated 7.5.1985 are both genuine and were actually issued by the office of respondent no.1 and therefore the question of manipulation and forgery by respondent no.2 does not arise. The respondents have further stated that in the Special Qualifying Examination held on 28.7.1985 by the Staff Selection Commission, only those Government servants who were recruited on ad hoc basis

against regular posts were eligible to apply. As the applicant was recruited on ad hoc basis against short term post created for 1981 Census, she was not allowed to appear at the above Examination. They have further stated that because of this she could not have been considered for regularisation and therefore her application was not forwarded for the Special Qualifying Examination held in July 1985 and her services were terminated after abolition of 1981 Census posts. They have further stated that the services of a regular employee can also be terminated if his post is abolished due to reduction of strength or for some other reason. On the above grounds they have opposed the prayers of the applicant.

4. Before taking into consideration the rejoinder of the applicant, it is to be noted that the applicant or the respondents have not enclosed the two letters dated 4.4.1985 and 7.5.1985 about which allegation has been made by the petitioner. In the rejoinder the applicant has stated that she has a continuing cause of action in view of the fact that similarly circumstanced ad hoc appointees were allowed to take the Examination and were subsequently regularised. The applicant has stated that according to the Department of Personnel & Training's letter dated 28.2.1985 (Annexure-9 to the Rejoinder) the applicant was entitled to appear at the Special Qualifying Examination. She has further stated that Staff Selection Commission in their letter dated 22.5.1985 returned the applications of nine candidates on the basis of a letter of respondent no.1 but those 9 candidates were again allowed by the Commission to take the examination. On the above grounds she has reiterated her prayers in the OA.

5. We have heard Shri K.C.Kanungo, the learned counsel for the petitioner and Shri B.K.Nayak, the learned Additional Standing Counsel for the respondents and have also perused the records.

6. In view of the controversy with regard to the alleged manipulation and forgery in respect of the letter dated 7.5.1985 we had directed the learned Additional Standing Counsel to produce the original letter received by respondent no.2 from the office of respondent no.2. The learned Additional Standing Counsel has produced the concerned file No.2/1/85-Estt. in which this letter is at Correspondence page 13 and we have seen the same.

7. The applicant's grievance is that she was appointed as an ad hoc LDC and for regularising the services of such ad hoc LDC a Special Qualifying Examination was held by Staff Selection Commission. The petitioner applied for sitting at the examination but her candidature was rejected by respondent no.2 on the basis of an allegedly manipulated and forged letter dated 7.5.1985. A copy of this letter has been enclosed to the rejoinder at Annexure-10. This letter is purportedly a letter issued by R.C.Sachdeva, Assistant Director in the office of Registrar General of India to Director of Census Operations,Orissa (respondent no.3). The applicant has stated that at the top of this letter it has been mentioned that the letter has been issued from the office of Director of Census Operations, Bhubaneswar. As this is a letter issued by the office of Registrar General to respondent no.2, mention of the office of Director of Census Operations at the top of this letter has led the applicant to allege that the letter has been forged and manipulated. We have gone through the original of this letter and we find that this is a genuine letter. At

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Annexure-10 this letter has been copied out in another memo and sent to all persons like the applicant whose applications were not forwarded for the Special Qualifying Examination. As this memo has been issued from the office of Director of Census Operations, on the top of this letter in this memo the office of Director of Census Operations has been mentioned. We have verified the original letter and we have no doubt that this is a genuine letter. In view of this, the contention that her candidature was rejected on the basis of a manipulated and forged letter is held to be without any merit and is rejected. We have also verified the other letter dated 4.4.1985. This is at correspondence page 299 of file No.2/1/84-Estt. in the office of respondent no.2. This is also another genuine letter which has a reference to an earlier letter dated 12.3.1985 which is at page 291/c of that file. Thus both these letters dated 4.4.1985 and 7.5.1985 are genuine letters and the contention of the applicant about forgery is absolutely without any merit and is rejected.

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8. The applicant has made several other submissions. She has stated that certain other persons whose applications were initially returned by the Staff Selection Commission were later on allowed to take the examination, but she was discriminated against. She has also mentioned that Smt. Indulata Mishra was allowed to take the examination. All this happened in the year 1985 and the applicant cannot be allowed to raise these points after passage of more than one and half decades. She had earlier approached the Tribunal in OA No.571 of 1992 in which she had prayed only for disposal of her representation by respondent nos. 2 and 3 in that OA. This has already been done. She should have raised these points which are raised

by her now, in her earlier OA. In view of this, these contentions cannot be considered at this belated stage.

9. In consideration of all the above, we holdl that the Application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)

MEMBER (JUDICIAL)

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(SOMNATH SOM)

VICE-CHAIRMAN

12.9.2000

September 12, 2000/AN/PS