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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.NOS. 51/98, 35/98 & 749 of 1997.

Cuttack, this the 31st day of March, 2000.

Prafulla Kumar Nanda & others. ... Applicants
versus.

Union of India & 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
31.3.2000

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 51 OF 1998.
ORIGINAL APPLICATION NO. 85 OF 1998.
ORIGINAL APPLICATION NO. 749 OF 1997.

CUTTACK, THIS THE 31ST DAY OF MARCH, 2000

C O R A M:

THE HONOURABLE MR. SOMNATH SOM, VICE-CHAIRMAN
A N D
THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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O. A. NO. 51 OF 1998.

SHRI PRAFULLA KUMAR NANDA,
Aged about 42 years,
S/o Late Gourahari Nanda,
At-Plot No. 571, Near-Rice Research Station,
PO-Bhubaneswar-30, Dist.Khurda.

: Applicant.

By legal practitioner : Mr. Subhasis Sen, Advocate.

- VERSUS -

1. Union of India represented through
Secretary to Government of India,
Ministry of Home Affairs, New Delhi.
2. Director, Census Operation, Orissa,
Bhubaneswar, At-Janpath, Unit-IX,
Bhubaneswar, Dist:Khurda.
3. Registrar General & Census Commissioner,
Government of India, 24, Mansingh Road,
New Delhi-11.
4. Secretary to Govt. of India
Ministry of Labour & Rehabilitation,
DG E&T, New Delhi.
5. Secretary to Govt. of Orissa,
GA Department, Orissa Secretariat,
New Capital, Bhubaneswar, Dist:Khurda.
6. Commissioner-Cum-Secretary to Govt. of Orissa,
Department of Revenue & Excise, Orissa
Secretariat, New Capital, Bhubaneswar,
Dist. Khurda.
7. Secretary to Govt. of Orissa, Deptt. of Food
Supplies and Consumer Welfare Orissa,
Secretariat, New Capital, Bhubaneswar, Dist:Khurda.

... RESPONDENTS.

By legal practitioner : Mr. J. K. Nayak, Additional Standing Counsel (Central) for Respondents 1 to 4.

By legal practitioner : Mr. K. C. Mohanty, Govt. Advocate for Respondents 5 to 7.

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O. A. NO. 85 OF 1998.

SAGAR PRUSTY,
Aged about 42 years,
S/o Late Raghunath Prusty,
At/Po:Kunjuri, Via. Pallahat,
PS/Dist:Khurda. Applicant.

By legal practitioner : Mr. S. Sen, Advocate.

-VERSUS-

1. Union of India represented through Secretary to Govt. of India, Ministry of Home Affairs, New Delhi.
2. Director of Census Operation, Orissa, Bhubaneswar, At: Janpath, Unit-IX, Bhubaneswar, Dist. Khurda.
3. Registrar General and Census Commissioner, Government of India, 24, Mansingh Road, New Delhi-11.
4. Secretary to Government of India, Ministry of Labour and Rehabilitation, DGE&T, New Delhi.
5. Secretary to Government of Orissa, General Admin. Deptt., Orissa Secretariat, New Capital, Bhubaneswar, Dist. Khurda.
6. Commissioner Cum Secretary, Department of Revenue & Excise, Orissa Secretariat, New Capital, Bhubaneswar, Dist. Khurda.

: RESPONDENTS.

By legal practitioner : Mr. J. K. Nayak,
Addl. Standing Counsel (Central)
for Respondents 1 to 4.

By legal practitioner : Mr. K. C. Mohanty, Government Advocate for Respondents 5 & 6.

S. Sahoo
....
O. A. NO. 749 OF 1997.

BHIKARI CHARAN SAHOO, Aged about 43 years,
S/o Late Ram Chandra Sahoo, At/Po: Naharkanta, Via. Baliantha,
Dist. Khurda.

: Applicant.

By legal practitioner : Mr. S. Sen, Advocate.

- VERSUS -

1. Union of India represented through Secretary to Govt. of India, Ministry of Home Affairs, New Delhi.
2. Director Census Operation, Orissa, Bhubaneswar, At: Janpath, Unit-IX, Bhubaneswar, Dist. Khurda.
3. Registrar General & Census Commissioner, Government of India, 24, Mansingh Road, New Delhi-11.
4. Secretary to Government of India, Ministry of Labour and Rehabilitation, DGE&T, New Delhi.
5. Secretary to Government of Orissa, General Admin. Deptt., Orissa Secretariat, New Capital, Bhubaneswar, Dist. Khurda.
6. Commissioner Cum Secretary, Department of Revenue & Excise, At: Secretariat, Bhubaneswar-1, Dist. Khurda.

: RESPONDENTS.

By legal practitioner : Mr. J. K. Nayak,
 Additional Standing Counsel (Central)
 For Respondents 1 to 4.

By legal practitioner : Mr. K. C. Mohanty,
 Government Advocate,
 For Respondents 5 and 6.

O R D E RMR. SOMNATH SOM, VICE-CHAIRMAN :

In these three cases, petitioners are similarly situated and they have made identical prayers. Respondents are also the same in all these cases and Government of India, in these three cases, have filed identical counters. State Government have also filed almost identical counters in all these three cases.

2. Facts of these three cases are, however slightly different and therefore, these cases have been heard separately but as the points for decision are the same, one order will cover all these three cases.

3. The admitted position between the parties is that three applicants in these cases are retrenched employees of Census organisation. As during the peak Census period the Census organisation recruits large number of staff and with the closure of Census operation, these persons are progressively retrenched during the inter census period. Government of India took up with the Govt. of Orissa, the question of giving alternative appointment to such retrenched employees on the basis of their past service. Accordingly, Government of India issued instruction and the Census authorities forwarded the name of such retrenched employees to the Government of Orissa for providing them with alternative appointment. In these three petitions, the petitioners have prayed for a direction to be issued to the Census authorities to enlist their names in the panel of retrenched census employees and for taking up their cases for consideration for alternative employment by the State Government. The Census Authorities in their counter have specifically averred that names of these three applicants were forwarded to the Government of Orissa for consideration for appointment as retrenched census employees. More particularly in OA No. 51/93 Census authorities in para-16 of their counter, at page-8 have averred that applicant's name was also sponsored for appointment under Government of Orissa in the list of such sponsored candidates which is at Annexure-1 of the counter filed by Census authorities and the name of the petitioner in this OA appears against Sl. No. 21. of this list.

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4. As regards OA No.85/93, the Census Authorities have
Applicant's averred that L name was forwarded to the State Government
for consideration as a retrenched employee and in the list
which has been enclosed by them, name of the petitioner
appears against Sl.No.48.

5. In Original Application No. 749 of 1997, Census
Authorities have made similar averments and in the list
forwarded to the State Government and filed alongwith the
counter, the name of the petitioner appears against Sl.No.13.

6. In view of this, it is clear that the prayer of
applicant so far as the Census Authorities are concerned
has already been fully met and therefore, there is no need
for passing any order with regard to this prayer.

7. The second aspect of the matter is that applicants
in these three applications have stated that inspite of
they are being retrenched census employees and having the
requisite knowledge and experience, they were not given any
alternative employment by the Government of Orissa even
though some of the juniors have been given appointment.
Government of Orissa, in their counter, have pointed out
that ~~ever thought~~ a policy decision was taken by the State
Government for absorbing the retrenched Census employees in
the posts available under the State Government. Respondent
No.6 in their counter have referred to the circular dated
2.2.1981 in which the terms and conditions of such re-
appointment of the retrenched Census employees have been laid
down. In this circular at para-IV it has been stated that the
age limit for entry into any post under any rule regulating
recruitment may be relaxed and relaxation of age may be granted
equal to the period of service rendered under the Government

prior to retrenchment.

8. From this it is clear that while considering retrenched Census employees for appointment under the State Government, age relaxation will have to be given to them to the extent of the service rendered by them under the Census organisation. The State Government, in their counter, in these cases have taken the stand that even granting the above age relaxation, these three applicants were over-aged and therefore, they could not be appointed. They have further stated that out of 192 retrenched employees, whose cases were forwarded by the Census organisation to the State Government as many as 147 persons have actually been absorbed and 45 candidates could not be absorbed due to their overage even granting the age relaxations as per the terms and conditions laid down in letter dated 2.2.1981 at Annexure-R/6/3. Out of those 45 persons, who could not be absorbed, the present three applicants are there.

9. Coming to the specific case of three applicants, it has been stated that the date of birth of the petitioner in OA No. 51/98 is 15.4.1955 and on the date of his retrenchment on 28.2.1994, he was 38 years, 10 months and 14 days old.

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Allowing relaxation of age by 5 years, 9 months and 8 days, on account of past service under the Census organisation his resultant age has become 33 years, 1 month and 6 days and therefore, at the time of consideration he was over-aged.

10. As regards applicant in OA No. 85 of 1998, it has been stated that his date of birth is 16.3.1955 and on the date of retrenchment i.e. 23.2.1994, he was 38 years, 11 months and 13 days. Allowing relaxation of age by 5 years, 3 months and 17 days, the period of past service under the Census Organisation, his resultant age became 33 years, 7 months and 26 days which is more than the maximum age limit of 32 years for entry into State Govt. service.

11. Similarly, the date of birth of applicant in original Application No. 749 of 1997 is 29.3.1954 and on 23.2.1994 the date of his retrenchment, he was 39 years 6 months. Allowing age relaxation to the tune of 4 years, 9 months and 8 days, the period of past service under the Census organisation, his resultant age coming to 34 years, 8 months and 22 days which is above the maximum age limit of 32 years for entry into the State Government Service. In view of this, these three applicants could not be given alternative appointment as even after allowing the age relaxation, they were overaged.

12. We have heard Mr. J. K. Nayak, learned Additional Standing Counsel (Central), and Mr. K. C. Mohanty, learned Government Advocate appearing for the State of Orissa. Learned counsel for the applicant was absent. On behalf of the learned counsel for the applicant, an adjournment was asked for. These cases have been posted from day to day on the dates as indicated by learned counsel for applicant but again adjournments have been granted at his request. As a large number of adjournments have been given in these

cases at the request of learned counsel for the petitioner for arguing the matters, the prayer for further adjournment was rejected.

13. From the above recital of facts, it is clear that the State Govt. have considered the candidature of these three applicants in terms of the circular dt. 2.2.1931 and they could not be provided with alternative employment because even allowing the age relaxation to the extent of past service rendered by them, they have become overaged. In the pleadings of the parties the principle for allowing age relaxation has been referred to where it has been submitted that after discounting the past service, if the resultant age exceeds the maximum age for appointment by less than three years, then such persons can be given appointment. It has been pointed out by learned Govt. advocate that this relaxation for appointment in Central Govt. only and for State Govt. such appointments are to be made in accordance with the terms and conditions made in the circular dated 2.2.1931. We also find that the principle adopted by the State Govt. for giving age relaxation to the extent of past service rendered under the Census organisation is eminently fair and therefore, there is no need for any interference.

14. In the result, we find no merit in these three applications, and the same are rejected. No costs.

Sd/- G. Narasimham
Member (Jud)

Sd/- Somnath Som
Vice-Chairman