

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

LUCKNOW BENCH LUCKNOW:

Original Application : 28 of 2008

This, the 10th day January, 2008.
HON'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. J.P. Snukla Member (J)

1. Tej Kumar Shukla, aged about 44 years,

son of Sri Ram Lekhan Shukla, resident

of village Persola post Uddoli, District

Barabanki.

2. Rama Shanker, aged about 45 years, son

of Sri Suchit, resident of village

Tharuadila, Post Hata, District Kushi Nagar.

3. Ram Nawaz Gypta, aged about 43 years,

son of Sri Anuradha Prasad, resident of

village Puraiamethia, Post Uddoli, District

Barabanki.

4. Ram Prasad Viskhwakarma, aged about 48

years, son of Sri Ram Jas Prasad, resident

of village Kodhana, Post Khanji, District

Gorakhpur.

5. Brij Narain Singh, aged about 51 years,

son of Sri Bhagwan Dass, resident of

village Dhangipur, post Lalpur Thekar,

District Gorakhpur-

6. Ram Brij Maurya, aged about 51 years,

son of Sri Mahadeo, resident of village

Manvila, Post Jungia Bazar, Gorakhpur.

7. Desraha Yadav, aged about 47 years, son

of Sri Sarjoo Prasad, resident of village

Bhagwanpur, Post Chori Chaura,

Gorakhpur.

8. Ram Bachan Prasad, aged about 46 years,

son of Sri Jeevan Lal, resident of village

Bhaghata Nagar, Post Lok Vidya Peti Nagar,

District Maharajganj.

9. Ram Naresh, aged about 46 years, son

of Sri Dev Narain, resident of village

Bans Gaon, Beshipatti Post Bans Gaon,

District Gorakhpur.

10. Keshav Prasad, aged about 44 years, son

of Sri Ram Parey, resident of village

Binduhar, Post Arauli, District Kushinagar

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11. Ram Chandra, aged about 44 years, son

of Sri Shyam Bali, resident of village

Bansgaon, Post Puraitola, District Gorakhpur.

12. Sharda Prasad Bengali, aged about 46 years,

son of Sri Bengali, resident of village

Benijol Kharkhara, Post C hori-Chaura,

District Gorakhpur.

13. Anwar Ali, aged about 47 years, son

of Sri Gul Mohammad, resident of village

Chkralal Post, Piprichi, District Gorakhpur

14. Swaran Kumar, aged about 43 years, son

of Sri Ram Jeet Singh, resident of village

Madhopur Post Lohari, District Gorakhpur.

15. Rajendra Yadav, aged about 44 years, son

of Sri Bhagirath, resident of village

Shankarpur Thakerpur No.1, Post Parmeshwarbhar

District Gorakhpur.

16. Ram Karan, aged about 47 years, son of

Sri Nand Lal Yadav, resident of Matakhbar,

post Saljiwan District Gorakhpur.

17. Udai Raj Prasad, aged about 47 years,

son of Sri Bengali Prasad, resident of village

Barauia Post Kamabhar, District Gorakhpur.

18. Virendra Kumar, aged about 43 years, son

of Sri Ram Bali Prasad, resident of village

Dharamu Post Bara Khata, District Gorakhpur.

19. Teju Prasad, aged about 47 years, son

of Sri Ram ~~Duare~~ Duarely Prasad, resident

of village Katha, Post Jagatvila, District

Gorakhpur.

20. F. Aslam, aged about 48 years, son of

Sri M. Aslam Khan, resident of village

Gangi Post Deoria Bazar, District Gorakhpur.

21. Sri Bhagwat, aged about 45 years, son of

Sri Paras Nath, resident of village Sirpataha

Mali Tola, Post Sirpataha, District Gorakhpur.

22. Ram Rishi, aged about 47 years, son of

Sri Chaklori, resident of village Talnee,

post Samara Maharaj, District Maharajganj.

23. Arjun Prasad, aged about 47 years, son

of Sri Kalpu, resident of village Panditpur
Post Ghajarau District Gorakhpur.

24. Rudh Narain, aged about 46 years, son
of Sri Ram Khelwan, resident of village
Pirakhali, Post Nepana, District Maharajganj.

25. Ram Asrey, aged about 47 years, son
of Sri Methi Lal, resident of village
Durgapur, post Balapur, District Gorakhpur.

26. Keshav Prasad, aged about 47 years, son
of Sri Ishwar Charan Shukla, resident of
village Soharwilla, Post Purandhpur, District
Maharajganj.

27. Ram Surat, aged about 48 years, son of
Sri Ram Kewal, resident of village Rudarpur,
post Khanji, District Gorakhpur.

28. Prem Chand, aged about 48 years, son of
Sri Parshadi, resident of village Aldhriapur
Post Piprauli, District Gorakhpur.

29. Om Prakash Gaar, aged about 42 years,
son of Sri Ram Bilas, resident of village
Pachraui, District Gorakhpur.

30. Gauri Shanker, aged about 45 years, son
of Sri Chittoo, resident of village Aldhirkpur,
post Piprauli, District Gorakhpur.

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31. Ram Narain, a ged about 45 years, son
of Sri Banarsi, resident of village
Manendhri, Post Bhagwanpur, District
Gorakhpur.

32. Ram Neshrat, aged about 47 years, son of
Sri Ram Swaroop, resident of village
Prampur, District Gorakhpur.

33. Ram Sanjeev, aged about 49 years, son
of Sri Paltoo, resident of village
Blaandhpur, Post Balaandhpur, District
Gorakhpur.

34. Sri R.D. Prasad, aged about 47 years,
son of Sri Karamu, resident of village
Manhapur, Post Piprauli, District Gorakhpur.

35. Ram Kishore, aged about 47 years, son
of Sri Badri, resident of village Midhabujra,
Post Jagdishpur, District Gorakhpur.

36. Shiv Nath Prasad, aged about 44 years,
son of Sri Bal Karan Prasad, resident of
village Sasrapur, Post Buishwal BansGaon,
District Gorakhpur.

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37. Ram Brisk, aged about 43 years, son
of Sri Bachan, resident of village Baijnath
Pur, Post Balapur, District Gorakhpur.

38. Shiv Nath Singh, aged about 47 years,
son of Sri Komal Singh, resident of village
Durgapur Balapur, District Gorakhpur.

39. Devendra Kumar Tripathi, aged about
46 years, son of Sri Jageshwar Prasad,
resident of village Garauli, Post Chhipa,
District Gorakhpur.

40. Sudhir Kumar Srivastava, aged about
43 years, son of Sri Dinesh, resident of
Vinay Khand, 2/869, Jaipur Chaura, Gomti
Nagar, Lucknow.

41. Avadh Kishore Singh, aged about 47 years,
son of Sri Paras Nath Singh, resident of
village & Post office Rajdhani, District
Gorakhpur.

42. Ram Karan Prasad, aged about 45 years,
son of Sri K. Prasad, resident of village
Ram Nagar Surat, P.O. Maheta, Gistt: Gorakhpur.

7/A

43. Sabir Ali Khan, aged about 43 years,

son of Sri Peer Mohammad, resident of village

Mahdeva Bastola, Post office Khanria Bujirg,

District Mahrajganj.

44. Ram Gati Prasad, aged about 49 years, son

of Sri Ram Bali, resident of village Signa,

Post office Sahjanava, District Gorakhpur.

45. G. Prasad, aged about 44 years, son of

Sri Kanihya Lal, resident of village Tikeriya

Jungle, District Gorakhpur.

46. Darbari Prasad Gupta, aged about 52 years.

son of Sri Khun Khun Prasad, resident of village

Garbwa, post office Pipriche, District Gorakhpur.

47. RamKesh Yadav, aged about 43 years, son

of Sri Hari Ram Yadav, resident of village

Ram Nagar Saras, Post office Maheta, District

Gorakhpur.

48. Sri Hari Narayan, aged about 50 years,

son of Sri Tirath Prasad, resident of village

Jungle Kodia Rampur, P.O. Junglekodia District

Gorakhpur.

7/B

49. Hira Prasad, aged about 45 years, son

of Sri Chaut resident of village Kunya

Chawani, P.O. Kamseem Khura, District

Mahrajganj.

50. Hari Ram, aged about 50 years, son of

Sri Kanghai, resident of village Baghtola

Tilak Ghara P.O. Machi Gaon, Gorakhpur.

51. Sant Ram Maurya, aged about 45 years, son

of Sri Shiv Biyat Prasad, resident of village

Paniyara Tola Kishya, District Mahrajganj.

52. Somai Prasad, aged about 44 years, son

of Sri Shiv Baran, resident of village Taliya

P.O. Samer maharaja, Distt: Mahrajganj.

By Advocate ~~Smt.~~ Smt. B. Godiyal **APPLICANTS/PETITIONERS**
Versus

1. Government of India, Ministry of Home

Affairs, New Delhi.

2. Director of Census Operations, U.P.,

Administrative Section, Lekhraj Market-III,

Indira Nagar, Lucknow.

By Advocate Shri K.K. Shukla

RESPONDENTS:

OR DER (ORAL)

Mr. Shanker Raju, Hon'ble Member (J):

At the outset, as held by the Apex Court, the *trite* principle of law is that by an executive order an arena, occupied by judicial pronouncements, cannot be infiltrated, as ruled by the Full Bench of this Tribunal in ***R. Jambukeshwaran and others v. Union of India and others***, 2004 (2) ATJ CAT 1.

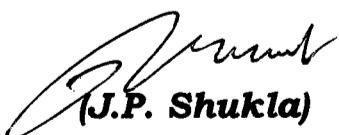
2. The present is a claim of Compilers, Checkers and Supervisors appointed on a consolidated salary in the Census Department. Having worked from 1981 and on discharge again engaged in 1991 had assailed respondents' order dated 20.1.2003 challenged the discharge from service and seeking regular appointment/absorption on vacant posts of Data Entry Operators (DEOs). Applicants had earlier approached this Tribunal in various OAs, including OA-38/1993 – ***Sanjeev Sharma v. Union of India***, which were disposed of by a common order on 12.03.1993, with a direction to respondents to consider their claim for appointment and absorption. The aforesaid was carried before the Apex Court in CA No.731-69/1994 and an order passed on 24.02.1995, taking cognizance of applicants having worked temporarily in Census Operation in 1981 and 1991 keeping in light the direct recruitment vacancies they have been directed to be considered for regular appointment on these posts. However, the aforesaid has not been considered by the respondents on the ground that though an advertisement has been issued, notifying direct recruitment

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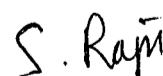
vacancies but the Registrar General of India vide its order dated 1.7.2002 directed not to fill up the posts of DDE Operators.

3. On careful consideration of the rival contentions of the parties a direction to regularize applicants, as reiterated by the Apex Court on direct recruit vacancies and moreover an admission in the reply as to acknowledgement of consideration of applicants in DEO Grade 'B' on fulfilling the conditions laid down in the recruitment rules, any decision of the Registrar General not to fill up the vacancies without any blanket ban, as reflected in the counter reply, is to overreach and infiltrate the directions issued by the Apex Court, which would not be permissible in law but would be an implied contempt and hence cannot be sustained.

4. In the result, for the foregoing reasons, OA is allowed to the extent that applicants shall now be considered against direct recruit vacancies of DEO for regular appointments, if they confirm to the eligibility criteria prescribed in the recruitment rules, within a period of three months from the date of receipt of a copy of this order. Consequences in law shall ensue. No costs.


(J.P. Shukla)

Member (A)


(Shanker Raju)

Member (J)

'San.'