

**Central Administrative Tribunal
Lucknow Bench Lucknow**

Contempt Petition No.26/2006
In
Original Application No.95/2003
This, the 16th day of October 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J)
HON'BLE DR. A.K. MISHRA, MEMBER (A)

Udai Naran Singh, aged about 44 years, son of Sri Vishwanath Singh,
R/o E-2284, Raja Ji Puram Colony, Lucknow.

...Applicant.

By Advocate:- Shri Pradeep Raje.

Versus.

1. Shri M.M. Samant, Secretary, Ministry of Home Affairs, Government of India, New Delhi.
2. D.K. Seekri, Registrar General of India, 2-A Man Singh, Road New Delhi, Commissioner of Census, New Delhi.
3. S.S.A. Jafri, Officiating Director Census, U.P. Lakhraj Doller, Indira Nagar, Lucknow.

... Respondents.

By Advocate:- Shri Yogesh Kesharwani.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER (J)

The applicant filed the C.C.P. under Section-17 of the Administrative Tribunal Act, 1985 read with Section 12 of Contempt of Court Act, 1971 to initiate the contempt proceedings against the respondents on the ground that the respondents have not taken any

action as per the direction of the Tribunal Dt. 07.04.2005 in main O.A., which amounts to deliberate disobedience of the order passed by this Tribunal and for such, they are liable to be punished.

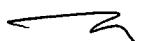
2. The Respondent No. 3 files Counter Affidavit, denying the claim of the applicants stating that the applicants have failed to establish by placing any material that the respondents had made defiance of the order of this Tribunal.

3. In spite of conditional order, the applicant did not argue the matter. Hence, his arguments were closed. Heard respondents' counsel.

4. The point for consideration is whether the applicant is entitled for the relief as prayed for.

5. These applicants have filed main O.A.No.95/2003 against the respondents, which was disposed of on 07.04.2005 with similar finding as in O.A.No.257/2004, with a direction to the respondents to follow the direction given by the Hon'ble Supreme Court in the case of Union of India & Others V. D.K. Saxena & Others reported in 1995 (3) SCC-401 as well as the directions of the Hon'ble High Court in W.P.No.3295/2001 in the case of Chhotu & Others Vs. State of U.P. & Others, on the file of Hon'ble High Court of Lucknow Bench.

6. Now the applicants have filed a contempt petition on the ground that the respondents have not obeyed the orders of this Tribunal Dt. 29.04.2004 to follow the decision of Hon'ble Apex Court. The applicants have field copy of the judgment in U.O.I. & Others Vs. D.K. Saxena & Others as (Ann.-2) and the operative portion of the said



judgments Dt. 25.02.1995 of the Hon'ble Supreme Court is reproduced below:-

"Ends of justice will be met if the Directorate of Census Operations, U.P. is directed to consider those respondents, who have worked temporarily in connection with 191 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 Operations and which can be filled by direct recruitment, if such employees are 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 appointment. Suitable rules may be made 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 posts. It is directed accordingly. The appellants have, in their written submissions, pointed out that as of now, 117 posts are vacant to which direct recruits can be appointed. They have also submitted that out of these posts, there were 88 vacant posts of Data Entry Operators, Grade-B, which had been advertised for being filled up only from the retrenches of 1981, 1984 and 1991. As per Recruitment Rules, only those retrenches were eligible to apply who were graduates and had a speed of 8000 key depretions per hour of date entry. Although approximately 800 retrenches applied, only 476 appeared in the test conducted by the N.I.C. of the Lucknow Unit and only 2 applicants qualified. Out of these, only one could be appointed, since the other person was over aged even after allowing for age relaxation. What ever may be the difficulties in giving regular appointments to such retrenched employees

in the past, the appellants , namely, the Union of India and the Directorate of Census Operations U.O. are directed to consider these retrenched employees for direct recruitment for regular posts in the Directorate of census Operations U.P. in the manner hereinabove stated. The retrenched employees will, however, have a right to be considered only if they fulfill all other norms laid down in connection with the also in question under the recruitment rules and / or in the other department regulations/ circulars in that behalf."

7. It is the case of the respondents that according to the direction of the Hon'ble Supreme Court, the applicants can claim their right for appointment to the post to be filled up directly through the Staff Selection Commission if they possess the qualification to the relevant post and they shall be entitled for relaxation in age, fixed if any, for the selection to the said post. The applicants may also be given weightage in selection to the said post according to there previous service record in the Census department. They further stated that whenever vacancies to the relevant posts are approved, the same are to be published in the news paper mentioning very specifically that the retrenched employees of 1981 or 1991 Census Operations shall be considered in terms of the dictum of the Hon'ble Supreme Court.
8. It is also their case that had any vacancy occurred for direct recruitment and the applicants would have not been considered in terms of the dictum of the Hon'ble Apex Court, then only it could have been alleged that the respondents deliberately disobeyed the order of the Tribunal. But the applicants cannot force the respondents for their

absorption or regularization of services through the contempt proceeding.

9. In the instant case, the applicants have not given any of the instance, where in the respondents authorities disobeyed the direction of the Tribunal, for considering their selection to the regular posts. Without showing any instance that the respondents have not considered their applications in terms of the direction given by the Hon'ble Apex Court for considering their selection to the regular post, it is not open to the applicants to blame the respondents. Thus, the applicants have failed to establish any act of contempt on the part of the respondents, to justify any action against them. In such circumstances the application for contempt does not survive against the respondents and is liable to be dismissed.

In the result, C.C.P. is dismissed. Notices discharged.


(DR. A.K. MISHRA)
MEMBER (A)


(M. KANTHAIAH)
MEMBER (J)

16.10.2008

/amit/