

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 217/2010

Reserved on 8.8.2014

Pronounced on 28/08/14

Hon'ble Sri Navneet Kumar, Member (J)

Sunder Lal son of Sri Babu Lal presently residing at 14/181, Alankar Cinema, Batase Wali Gali, Purana Barf Khana, Udaiganj, District- Lucknow.

Applicant

By advocate: Sri Dharmendra Awasthi

Versus

1. Union of India, through the Secretary, Ministry of Home Affairs, New Delhi.
2. Registrar General and Census Commissioner of India, 9-A, Man Singh Road, New Delhi.
3. Director of Census Operations, UP, Lekhraj Market, Indira Nagar, Lucknow.
4. Regional Census Officer, H-8, N Block, Kakadeo, Kanpur Nagar.

Respondents

By Advocate; Sri Rajendra Singh for Sri R. Mishra

ORDER

By Hon'ble Sri Navneet Kumar, Member (J)

The present O.A. is preferred by the applicant under Section 19 of the AT Act with the following reliefs:-

- a) direct the respondents to adjust /appoint the applicant as Sri Satish Kumar Gautam, a retrenchee has been appointed in compliance of order dated 19.3.2007 passed by the Hon'ble High Court.
- b) quash the letter dated 23.12.2009 issued by Assistant Director, Administration, which is contained as Annexure No.1 to this Original Application whereby the respondents are denying the informing that no appointment is being made.
- c) pass any other suitable order or direction which this Hon'ble Tribunal may deem fit just and proper under the circumstances of the case in favour of the applicant.
- d) allow the present original application of the applicant with costs.

2. The brief facts of the case are that the respondents invited offer for coding job of Census -1991 for the State of U.P. in pursuance of the offer made by the O.P. No. 4. The applicant has done the census job upto 31st December, 1992. Subsequently, the applicant along with other persons, preferred the O.A. before this Tribunal with a prayer that they may be regularized on a clear post in Grade 'D' or

Grade 'C' and the said O.A. was disposed of by means of order dated 3.5.1993. The applicant challenged the order of the Tribunal before the Hon'ble Apex Court and the Hon'ble Apex Court directed the Govt. to consider the retrenched employee for direct recruitment to regular post in the Directorate of Census Operation, U.P., if they fulfill all other norms laid down in connection with the posts in question. Not only this, the learned counsel for the applicant has also pointed out that the Hon'ble High Court has also passed an order in Writ Petition No.30811 of 2000 (Sunder Lal Vs. Union of India and others) and directed the respondents to consider the claim of the petitioner within a period of two months. During the course of arguments, the learned counsel for applicant has also produced a copy of letter dated 10.6.2011 addressed to the applicant which provides as under:-

“सीधी भर्ती के समय श्री सुन्दर लाल द्वारा आवेदन किये जाने पर ही आदेश के आधीन मानदण्डों पर आवश्यक कार्यवाही की जा सकती है।”

and has also submitted that direction be issued to the respondents to consider the case of the applicant in the light of the aforesaid letter in accordance with law.

3. On behalf of the respondents, preliminary objection as well as detailed counter reply was filed and through counter reply, respondents denied the averments made in the O.A. and has categorically pointed out that after the decision of the Tribunal, the Hon'ble Apex Court passed an order and certain directions were issued. Apart from this, respondents have also relied upon decision of the Hon'ble Apex Court in the case of **Secretary, State of Karnataka and others Vs. Uma Devi** and has pointed out that the applicant does not have any claim to be regularized.

4. On behalf of the applicant, Rejoinder is filed and through Rejoinder reply, averments made in the O.A. are reiterated and denied the contents of the counter reply.

5. The learned counsel for the applicant has also submitted that the applicant was engaged for Census work and the respondents have issued a letter on 10.06.2011, through which it is categorically pointed out that at the time of direct recruitment on the basis of application submitted by the applicant, the decision is to be taken in accordance with rules.

6. Heard the learned counsel for the parties and perused the records.

7. The applicant performed the work of coding job of Census 1991 and has also preferred an O.A. before this Tribunal which was disposed of by means of order dated 3.5.1993. The applicant also challenged the same before the Hon'ble Apex Court and the Hon'ble Apex Court while deciding the SLP observed as under:-

“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 1981/ or 1991 census operations, and who have been subsequently retrenched, for appointments in any regular vacancies which may arise in the Directorate of Census Operation and which can be filled by direct recruitment, if such employees are otherwise 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 and conditions laid down in this connection by the appellants and /or 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 in the regular posts.”

8. The applicant thereafter sought certain information under the Right to Information Act and in pursuance of the same, the respondents have issued a letter dated 10.6.2011 addressed to the applicant in which it is mentioned by the respondents that:-

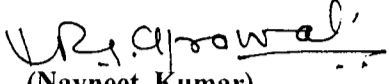
“सीधी भर्ती के समय श्री सुन्दर लाल द्वारा आवेदन किये जाने पर ही आदेश के आधीन मानदण्डों पर आवश्यक कार्यवाही की जा सकती है।”

9. At the out set, learned counsel for applicant has mentioned this fact that since the respondents have already observed through their letter dated 10.6.2011 that at the time of direct recruitment, if the applicant applies, the same shall be considered in accordance with law. Under such circumstances,

I feel it necessary in the interest of justice that a direction can be issued to the

respondents that at the time of direct recruitment, in case the applicant applies for the same, the same may be considered in accordance with rules and law and decision so taken be communicated to the applicant.

10. With the above observations, O.A. stands disposed of. No order as to costs.


(Navneet Kumar)
Member (J)

HLS/-