

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH

O.A.494/91

Lucknow this the 20th day of March, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

Hon'ble Shri A.K. Misra, Member(A).

1. Piyush Kumar Srivastava, aged about 38 years, son of Sri Shri Chandra Srivastava, resident of Village & Post Office Pila Mahua, district Hardoi.
2. Surya Pal Singh, son of Sri Deo Kali Singh, resident of village Joraura, Post Office Loshaura, district Barabanki.
3. Parikrama Prasad, son of Sri Ram Shanker, resident of village Birapur, Post Office Semranwa, district Barabanki.
4. Girdhari Lal, son of Sri Nageshwar resident of village Jalabad, Post Office Mahmoodabad, district Barabanki.
5. Bachcha Singh son of Sri Aditya Prasad Singh, resident of Village and Post Office Babhniyan (Raja Talab) district Varanasi.
6. Baba Prasad, aged about 35 years son of Sri Ghurhu, Yadav, resident of House No.5-2/313 Bhojubeer, Varanasi.
7. Ram Bahal, aged about 47 years, son of late Sukhdeo resident of village Samar Handi, Post Office Rithua Khere, (VayaSahjanwa) district Gorakhpur.

18

8. Nagendra Pandey, aged about 29 years, son of Sri Gangotri Pandey, resident of village Sairnu Post Baghawlee, district Basti.
9. Ashok Kumar Singh, aged about 35 years, son of Satya Narayan Singh, resident of village Kharati Post Mohammadpur (Sadar) district Azamgarh.
10. Gajraj Das, aged about 33 years, resident of village Bhagwanpur @ Bhulna post Office Bhitaura Bazar, district Maharranganj.
11. Panna Lal, aged about 40 years son of Sri Bhaggu Prasad, resident of village Govingpur, Post Office Babhniyam district Varanasi.
12. Triloki Nath Pandey, aged about 35 years son of Sri Tara Prasad Pandey, resident of Krishna Mill Stores, near Janta Chowk, Nautanwa Bazar, district Mahasajganj.
13. ^{Ram} Raj Kumar Sharma, aged about 32 years, son of Sri Hari Shanker Sharma, resident of village Khudi Kamalpur, Post Office Mawana Kala, district Meerut.
14. Vijai Bahadur, aged about 33 years son of Sri Chaudhi Prasad, resident of village Mirakhpur, near old State Bank of India, Bindki, district Fatehpur.
15. Ashwani Kumar Tripathi, aged about 32 years son of Sri Harish Chandra Tripathi, resident of H.No.130 village Kheyara, Post Office Janeshwar Mandir, Nawaganj, district Kanpur.
16. Ram Sajeewan, aged about 34 years son of Sri Mahavir, resident of village and post Office Mahraha, district Fatehpur.

17. Ram Pal, aged about 38 years son of Sri Gaya prasad, resident of village Churai Khera, Post Office Baipur, (Beuiganj) district Hardoi.

18. Chet Ram, aged about 36 years son of Sri Bibhuti, resident of village Sar sand, Post Office Subhan Khera, district Hardoi.

19. Daya Krishna, aged about 35 years son of Sri Ram Bilas Dwivedi, resident of village and Post Office Maseeth, district Hardoi.

20. Ram Charan, aged about 33 years son of Sri Ram Gulam resident of village Murliganj, Post Office Jaidpur district Barabanki.

21. Ahmad Ali Minai, aged about 40 years son of Sri Mohd Safiq Mirai, resident of village and Post Office Bijnore, district Lucknow.

22. Mani Swaroop Awasthi, aged about 35 years son of Sri Shaker Sahai Awasthi (late) resident of village and Post Office Kotra, district Sitapur.

23. Smt. Veena Gaur, aged about 32 years daughter of Ganesh, wife of Sri Mani Swaroop Awasthi, resident of Village and Post Office Kotra, district Sitapur.

24. Ram Deo Singh Yadav, aged about 39 years son of Sri Piyaman, resident of village Kanchanpur Matiyari, Chinhat, Lucknow.

... APPLICANTS
(~~None~~ None present) versus

1. The Union of India, through The Registrar General of India, 2/A Mansing Road, New Delhi.

2. The Director of Census Operations, U.P., 6, Park Road, Lucknow.

... RESPONDANTS.

(By Advocate Shri A.K. Chaturvedi)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

This case has been filed by 24 applicants in which they have prayed for a direction to the respondents to absorb them against the regular/permanent vacancies and also that the respondents may be restrained from their contemplated action to terminate their services.

2. None has appeared for the applicants even though this case was listed at Serial No. 1 in the cause list dated 15.3.2001. However, we have carefully perused the pleadings on record and heard Shri A.K. Chaturvedi, learned counsel for the respondents.

3. The brief facts of the case are that the applicants state that they are retrenched employees of Respondent 2 who had devoted the best part of their life in the Census Department during the 1981 Census Operation Work. They have since been retrenched. They have submitted that Respondent 2 had passed the order dated 30.6.1984 arbitrarily. They have relied on the judgement of the Allahabad High Court (Lucknow Bench) in Writ Petition No. 3235/85 and the order of the Supreme Court dated 21.2.1990 dismissing the appeal filed by the respondents. They have submitted that the respondents were restrained from appointing ~~the~~ outsiders or ~~the~~ retired employees of the Census Department, ignoring the claim of the retrenched employees. They have submitted that after the Tribunal's order dated 6.5.1991 in OA 116/91, Respondent 2 had appointed the applicants during the months of June/July, 1991 on a consolidated salary of Rs. 900/- per month on a purely temporary basis for one year. They have stated that they had agreed to this meagre salary because of the circumstances.

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4. In the reply filed by the respondents in May, 1992, they have stated that the State Government had issued orders dated 6.11.1981 by which the benefit of extension of age and counting of the actual period served in the Census Department was given to ^{the} 1981 retrenched employees to appear for the recruitment to permanent posts of Direct Data Entry System under the respondents/Department. Shri A.K. Chaturvedi, learned counsel has submitted that the order of the Allahabad High Court (Lucknow Bench) dated 16.7.1984 was confined for the completion of 1981 census operation and cannot be extended for further census operations. He has also submitted that the respondents have submitted that some of the 1981 retrenched employees who could not qualify in the special recruitment test for the posts in various Departments had filed Writ Petition No. 3748 of 1990 in the Allahabad High Court, Lucknow Bench in 1990 and obtained an ex-parte order against ^{the} fresh recruitment until the retrenched employees of 1981 census were recruited. Later, they have filed OA 116/91 before the Tribunal praying that they should be absorbed permanently in ^{the} 1991 census operation work. Learned counsel has submitted that for the 1991 census, Registrar General of India (RGI), after reviewing the exigencies of the work decided to recruit persons on contract basis on a consolidated salary and a new recruitment policy for that year had been adopted. Learned counsel has submitted that the mandate granted by the High Court in Writ Petition No. 3235/84 and decided on 16.7.1984, ^{therefore}, does not remain in force for the 1991 census as well as for the subsequent periods. He has, therefore, submitted that the retrenchment of the employees when the posts were abolished after the work had been completed is not illegal and the decision taken by the respondents is a matter of policy. He has, therefore, submitted that the recruitment for 1991 census to take care of the extra ^{work} census work is valid.

5. From the averments made by the applicant, it is noticed that the applicants have been re-employed by Respondent 2 on a consolidated salary. The respondents have justified the new recruitment policy which they had formulated for ^{the 1991} census work, which they have stated is different from what has been done earlier for the census work in 1971 and 1981. The applicants have not cared to file any rejoinder to the reply filed by the respondents in which they have tried to justify the need for the fresh policy decision for recruitment for the census work done in 1991. It may incidentally be mentioned that in Feb, 2001, the census work for the year 2001 has also been undertaken by the respondents.

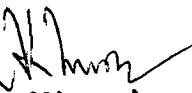
6. Taking into account the above facts and circumstances of the case, the nature of the work for which the applicants have been recruited as per the recruitment policy for the 1991, we do not find any justification to interfere in the matter. The averments of the respondents that the Government has a right to create and abolish posts according to the exigencies of the administrative requirement are correct. The nature of work on which the applicants have been employed is for census work which is admittedly undertaken by the respondents every ten years. The respondents have stated that in pursuance of the new policy for contract appointment of retrenched persons of previous census, various advertisements had been published in the daily newspapers so that retrenched employees were informed. As a result of ^{the 13} publicity, more than four hundred retrenched employees of previous census, including 1981 census, joined on fixed pay basis on contractual appointments in terms of the conditions for appointment adopted by the respondents.

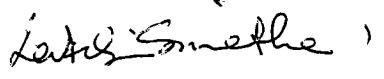
13

7. The applicants have annexed a number of judgements, including the judgements on 'Equal pay for equal work', but in the facts and circumstances of the case, these judgements will not assist the applicants. They are not regular employees but employed for the census work for a short period.

8. The respondents have submitted that the judgement of the Allahabad High Court (Lucknow Bench) dated 16.7.1984 cannot be applied for all times but at the same time they should try to safeguard the interests of the retrenched employees who had been earlier employed in census work. Therefore, in case any of the retrenched employees apply for appointments in suitable existing posts, they may be considered, subject to their fulfilment of the terms and conditions laid down in the relevant recruitment rules by giving them some weightage for their past service.

9. The O.A. is accordingly disposed of in terms of paragraph 8 above. No order as to costs.


(A.K. Misra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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