

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA),
Indiranagar,
Bangalore - 560 038

Dated : 20-7-87

Application No. 409 /88(F)

W.P. No

Applicant

Shri B.S. Gopala Rao
To

V/s The Director of Census Operations
in Karnataka & another

1. Shri B.S. Gopala Rao
Tabulation Officer
Office of the Director of Census
Operation in Karnataka
21/1, Mission Road
Bangalore - 560 027
2. Shri Prasad Subbanna
Advocate
36, Vagdevi
Shankarapuram
Bangalore - 560 004

3. The Director of Census Operation
in Karnataka
21/1, Mission Road
Bangalore - 560 027
4. The Joint Director of Census Operation
21/1, Mission Road
Bangalore - 560 027
5. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH IN
APPLICATION NO. 409/87(F)

Please find enclosed herewith the copy of the Order/~~XXXXXXXXXX~~
passed by this Tribunal in the above said Application on 14-7-87.

Encl : as above.

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SECTION OFFICER
(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 14TH DAY OF JULY, 1987

Present: Hon'ble Shri Ch. Ramakrishna Rao, Member (J)
and
Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 409/87

Shri B.S. Gopala Rao,
S/o B.S.N. Rao,
Tabulation Officer,
O/o the Director of
Census Operation in
Karnataka,
Mission Road, B'lore-27.

.... Applicant.

(Shri Prasad Subbanna, Advocate)

v.

1. The Director of Census Operation
in Karnataka, No.21/1, Mission
Road, Bangalore-27.
 2. The Joint Director of Census Operations
No.21/1, Mission Road,
Bangalore-27.
- Respondents.

(Shri M. Vasudeva Rao, CGSC)

This application having come up for hearing to-day,
Shri P. Srinivasan, Member (A) made the following:

ORDER

In this application filed under Section 19 of the
Administrative Tribunals Act, 1985 the applicant who is
currently working as Statistical Assistant ('SA') in the
Office of respondent 2, viz, the Joint Director, Census
Operations, Karnataka, complains that order dated 20.5.87
(Annexure-C) passed by R2 by which he was reverted from
the post of Tabulation Officer ('TO') to that of SA was
illegal and therefore should be struck down.



P. Srinivasan

2. Sri Prasad Subbanna, learned counsel for the applicant, contends that there was no justification for the issue of the impugned order. The applicant was promoted as TO from the post of SA on ad hoc basis by order dated 5.5.1981 alongwith 7 others. He continued in that post till he was reverted by the order challenged in this application. No reason was given for the reversion. Sri Subbanna contends that even while reverting an ad hoc appointee reasons for such reversion should be stated in the order, especially after he has held the post for over six years. It ^{it was} ~~would~~ not as if there were no vacancies to accommodate the applicant. According to Sri Subbanna there were 11 posts in the grade of TO in the Karnataka State and the applicant should have been retained against one of these posts. Dealing with the point raised in the reply of the respondents that the applicant had to be reverted to make room for his seniors viz. Thippa Setty and Jehangir Pasha, who returned from deputation, Sri Subbanna pleaded that this could not be correct because the applicant was promoted to the post of TO alongwith J. Pasha and not in the place of J. Pasha. That being so, the return of J. Pasha could not result in the reversion of the applicant.

3. Sri M. Vasudeva Rao, appearing for the respondents, countered the arguments of Sri Subbanna. He stated there were only 10 posts in the grade of TO as on 30.6.1987



P. Subbanna

Out of 11 posts which were sanctioned on a temporary basis, one was withdrawn because the Financial Adviser ('FA') did not agree to its continuance. He produced a copy of a letter addressed by the JD, Census Operations, Karnataka to the Registrar General of India, New Delhi on 24.6.87 setting out the number of posts in the grade of TO, according to which there were only 10 posts. He also produced in original a telegram received from the office of the Registrar General addressed to JD Census Operations in which it was clearly indicated that one post of TO could not be continued beyond 28.2.87. There were thus only 10 posts including one permanent and 9 temporary posts. Sri Rao also showed us a list of 10 persons who are occupying these posts and who are all senior to the applicant. In view of this the applicant's reversion was inevitable. It was not as a measure of punishment that he was reverted but due to non-availability of posts. His promotion was on an ad hoc basis and his reversion had to take place for insufficiency of vacancies. Not only the applicant but two others viz. Parthasarathy and Saraswathy were also reverted for want of vacancies. This being so there was nothing illegal in the applicant's reversion.

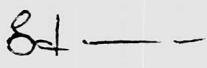
4. We have considered the contentions of both sides. We have no reason to doubt the statement of Sri Rao that there are in fact only 10 posts of TO in the office of the R2, and that all those 10 posts are occupied by persons senior to the applicant. The list of the persons currently



P. S. [Signature]

holding the posts of TO were shown to Sri Subbanna to ascertain from him whether any of them was junior to the applicant, but he confirmed that they were all his seniors. The statement produced by Sri Subbanna indicating the total number of posts all over the country and posts allotted to Karnataka no doubt shows 11 posts in Karnataka but the position has been explained by Sri Rao as already stated viz. one post lapsed for want of sanction by the FA. Shri Subbanna is not able to show that any person junior to the applicant has been retained in the post of TO. What is more, we must remember that the applicant's promotion in the first place was on ad hoc basis and so he had naturally to be reverted when there were no vacancies. There was no element of punishment involved and hence no question of the respondents having to give reasons in the order or giving him an opportunity of being heard.

5. In the result the application is dismissed.
Parties to bear their costs.


Member (J)


Member (A)

- True Copy -

gr/Mrv.


SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE



REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 4-11-87

REVIEW APPLICATION NO
in Application No. 117 /87()
U.P. NO. 409/87(F)

APPLICANT

Shri B.S. Gopal Rao
To

Vs

RESPONDENTS

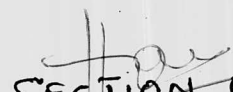
The Director, Census operation
in Karnataka & Another

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Tabulation Officer
Office of the Director of
census operation in Karnataka
21/1, Mission Road
Bangalore - 560027
2. Shri Ranganatha Jois
Advocate
36, 'Vagdevi'
Shankarapuram
Bangalore - 560004.

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on 30-10-87.

Encl: as above.


SECTION OFFICER.
(JUDICIAL)

without the clearance of the FA, unless the latter is over-ruled by some higher authority, the sanction for a post cannot be continued. It is not necessary that there should be a FA in the office of Registrar General. The FA is common to several departments under a Ministry. We have no reason to doubt what was urged on behalf of the respondents at the time the original application was heard that proper sanction for the 11th post had expired and the applicant being the junior most TO had to be reverted. We therefore, dismiss this R.A.

Sd/-

(P. SRINIVASAN)
MEMBER (A)

Sd/-

(CH. RAMAKRISHNA RAO)
MEMBER (J)

mr.

- True copy -



[Signature]
SECTION OFFICER 4/11
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE THIRTEETH OCTOBER, 1987.

Present: Hon'ble Shri P. Srinivasan ... Member (A)
Hon'ble Shri Ch. Ramakrishna Rao ... Member (J)

REVIEW APPLICATION NO.117/87

Shri B.S. Gopal Rao
S/o. B.S.N. Rao
Tabulation Officer
Office of the Director of
Census Operation in Karnataka
Mission Road, Bangalore-27. ... Applicant
(Shri Ranganatha Jois, Advocate)

Vs.

1. The Director of Census
Operation in Karnataka,
2. The Joint Director of Census
Operations
No.21/1, Mission Road
Bangalore - 27. ... Respondents

This application has come up for hearing before
this Tribunal today, Hon'ble Shri P. Srinivasan, Member (A),
made the following:

O R D E R

By this Review Application, the applicant wants
us to review our order dated 14.7.1987 in A.No.409/87 as,
according to him, an error apparent from the record has
crept into that order. The grievance of the applicant in
A.No. 409/87 was that he was wrongly reverted from the post
of Tabulation Officer (TO) to that of Statistical Assistant.
The contention of the Respondents in that application was
that out of 11 temporary posts of TO which had been earlier

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....2/-



sanctioned one had been withdrawn by the Financial Adviser (FA) and 10 other posts were held by persons senior to the applicant and so the applicant had been reverted. We accepted this statement of learned counsel for the respondents and upheld the reversion of the applicant. Counsel for the respondents showed us a telegram in original received from the office of the Registrar General by the Joint Director, Census Operation, Respondent-2 in that application, which indicated that one post of TO could not be continued beyond 28.2.1987. We found no reason to doubt the genuineness of the records produced before us and the statement made by the learned counsel for respondents. We, therefore, dismissed the application.

2. Shri Ranganatha Jois submits that there is no such person as the FA in the office of the Registrar General who could withdraw sanction of posts. It was only the Registrar General who could do so. The Respondents should have produced correspondence between the office of Respondent-2 in which the applicant was working and the office of Registrar General to show the absence of vacancy to accommodate him and that not having been done, this Tribunal should not have accepted the contention of respondents and dismissed the application.

3. We see no merit in this application. Every Ministry in the Government of India has a FA and

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contd...3/-



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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 4-11-87

REVIEW APPLICATION NO
in Application No. 117 /87()
D.P.No.

409/87(F)

APPLICANT

Vs

RESPONDENTS

Shri B.S. Gopal Rao
To

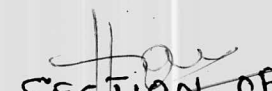
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