

## CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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Commercial Complex (BDA)  
 Indiranagar  
 Bangalore - 560 038

Dated : 30 JUN 1988

APPLICATION NO.

376

/ 88(F)

W.P. NO.

Applicant(s)

Shri S. Narasimha Murthy

To

v/s

Respondent(s)The Joint Director of Census Operations in  
 Karnataka, Bangalore & another

1. Shri S. Narasimha Murthy  
 Assistant  
 Director of Census Operations  
 in Karnataka  
 21/1, Mission Road  
 Bangalore - 560 027
2. The Joint Director of Census  
 Operations in Karnataka  
 21/1, Mission Road  
 Bangalore - 560 027
3. The Registrar General, India  
 No. 2/A, Mansingh Road  
 New Delhi - 110 011
4. Shri M. Vasudeva Rao  
 Central Govt. Stng Counsel  
 High Court Building  
 Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/STAY/EXCEP/ORDER  
 passed by this Tribunal in the above said application(s) on 27-6-88.

Encl : As above

*Deputy Registrar*  
 DEPUTY REGISTRAR  
 (JUDICIAL)

qc -

*Officed  
 T. N. M. 30-6-88*

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE

DATED THIS THE 27TH DAY OF JUNE, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy, Vice-Chairman  
and  
Hon'ble Shri L.H.A. Rego Member (A)

APPLICATION NO. 376/1988

Shri S. Narasimha Murthy,  
S/o Late S.L. Venkatachala Sastry,  
Aged about 47 years,  
Assistant, O/o the Director  
of Census Operations, Karnataka  
No.21/1, Mission Road, Bangalore. .... Applicant.

1. The Joint Director of Census  
Operations, Karnataka,  
No.21/1, Mission Road,  
Bangalore.
2. The Registrar General  
India, No.2/A, Mansingh Road,  
New Delhi. .... Respondents.

(Shri M. Vasudeva Rao, C.S.A.S.C.)

This application having come up for hearing to-day,  
Vice-Chairman made the following:

O R D E R

This is an application made by the applicant under  
Section 19 of the Administrative Tribunals Act, 1985  
(the Act').

  
Shri S. Narasimhamurthy, the applicant before us  
who initially joined service as a Lower Division Clerk  
('LDC') in the Census Department of Government of India,  
was promoted on 14.3.1980 as an Assistant on an ad hoc  
basis in the then time scale of pay of Rs.425-700, from  
which date he is working in that capacity without  
interruption. On more than one occasion, the applicant  
represented to the competent authorities to regularise  
his services as an Assistant, atleast from the date the

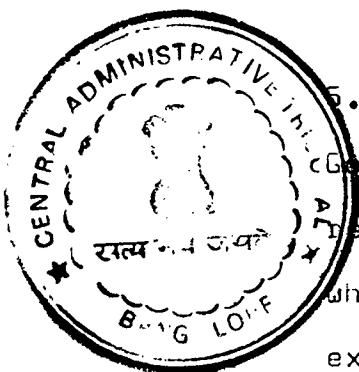
recruitment Rules called 'The Office of the Registrar General and ex-officio Census Commissioner for India and the Office of the Directors of Census Operations in States and Union Territories (Assistant/Head Clerk) Recruitment Rules, 1984 ('the rules') (Annexure-R10) came into force. But, so far, the said claim of the applicant has not been acceded to by the respondents. Hence, this application.

3. In their reply, the respondents have inter alia urged that the post of Assistant to which the applicant had been promoted on an ad hoc basis, was a temporary post, the term of which was due to expire on 31.8.1988 and, therefore, his services as an Assistant cannot be regularised.

4. Shri S. Narasimhamurthy, the applicant, contends that his services as an Assistant, had to be regularised at any rate, from the date the Rules came into force and the orders made by Government from time to time did not prohibit the same.

5. Shri M. Vasudeva Rao, learned Additional Central Government Standing Counsel, appearing for the respondents refuting the contention of the applicant, contends, that when the post itself was a temporary post and was due to expire on 31.3.1988, it would be odd to regularise the services of the applicant from any prior date.

6. We have earlier noticed that the applicant was promoted as an Assistant on 14.3.1980 and ever since then, he is working in that capacity without interruption. It



is not the case of the respondents that the applicant is unsuitable to hold and continue as an Assistant for any satisfactory reason. If that is so, then it will be some what odd to continue him indefinitely on an ad hoc basis.

7. We have carefully examined all the documents produced by the respondents with their reply.

8. We will also assume that the term of the post of Assistant is due to expire on 31.8.1988 (vide: Annexure-R6) and the same is not likely to be continued thereafter by Government. We are of the view, that the temporary character of the post has hardly any relevance to consider the case of the applicant for regularisation of his services as an Assistant. We do not find any prohibition for considering the case of the applicant for regularisation as an Assistant, at any rate, atleast from the date the Rules came into force.

9. The instructions issued by Government on 15.7.1976, reproduced on pages 138 and 139 of Swamy's Compilation on Seniority and Promotion in Central Government Services which are apposite read thus:

"As the Ministries/Departments are aware, no ad hoc appointments should be made except in short term vacancies. Resorting to ad hoc promotions/appointments on a long term basis, deprives the rightful persons of their promotions for long periods and also tends to create a vested

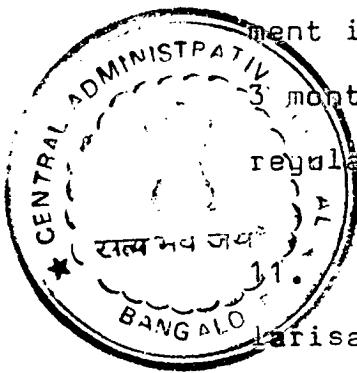


interest for the ad hoc promotees to continue. It is, therefore suggested that if there are any difficulties in preparing a regular panel, they should be sorted out in inter-departmental meetings at appropriate level in which, if need be, the Union Public Service Commission should also be associated. Where cases are pending in courts, the Administrative Ministries may have to move the courts to expedite the disposal. In other words, all possible steps should be taken to ensure that as far as possible no appointments are made at all except in short term vacancies."

Even these Circular instructions issued by Government only support what has been expressed by us earlier.

10. We are informed that claims for regularisation have to be examined and decided with the assistance of a Departmental Promotion Committee constituted by Government in that behalf and therefore (Shri Rao prays for 3 months' time) to consider the case of the applicant for regularisation. We consider it proper to grant the same.

As and when the case of the applicant for regularisation is considered and decided and that if his services are regularised from the date the Rules came into force, then the conditions of service for his career advancement will have to be regulated on that basis. We have no doubt that the authorities will do so without driving the applicant to this Tribunal with an another application.



12. In the light of our above discussion, we allow this application in part and direct the respondents to consider the case of the applicant for regularisation as an Assistant from the date the Rules came into force in accordance with law and the observations made in this order and pass all such appropriate orders as the circumstances justify with all such expedition as is possible in the circumstances of the case and in any event within a period of 3 months from the date of receipt of this order.

13. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

Sd/-

VICE-CHAIRMAN 27/6/88

Sd/-

MEMBER (A) 27.6.88

TRUE COPY



*R. Venkateshwaran*  
DEPUTY REGISTRAR (JD) 8/6/88  
CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE