

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated: 28 MAY 1993

APPLICATION NO(s). 478 of 1989.

Applicant(s) Smt. N. Tripuramba

v/s. Respondent(s) Director, Census Operations, Bangalore.

To

1. Smt. N. Tripuramba,
Statistical Assistant,
Office of the Director
of Census Operation in
Karnataka, No.21/1,
Mission Road,
Bangalore-560 027.
2. Sri.B.G.Sridharan,
Advocate, No.24,
Yamuna Bai Road,
Kumara Cot Layout,
High Grounds,
Bangalore-1.
3. The Registrar General,
Kotah House,
Mansingh Road,
New Delhi-110 011.
4. The Director of
Census Operation in
Karnataka, No.21/1,
Mission Road,
Bangalore-560 027.
5. Sri.L.Ramachandra,
Statistical Assistant,
Office of the Director of
Census Operation in Karnataka,
No.21/1, Mission Road, Bangalore.
6. Sri.M.S.Nagaraj,
Statistical Assistant,
Office of the Director
of Census Operation in
Karnataka, No.21/1,
Mission Raod,
Bangalore-27.
7. The Joint Director of
Census Operations,
No.21/1, Mission Road,
Bangalore-27.
8. Sri.M.Vasudeva Rao,
Central Govt. Standing
Counsel, High Court Bdg,
Bangalore-1.

SUBJECT:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore Bench
Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY/INTERIM ORDER passed by this Tribunal in the above said
application(s) on 26th May, 1993.

Copies enclosed
from Smt. N. Tripuramba
for Smt. N. Tripuramba
for Smt. N. Tripuramba

O/C

For DEPUTY REGISTRAR
JUDICIAL BRANCHES

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

DATED THIS THE 26TH DAY OF MAY, 1993.

P R E S E N T

HON'BLE SHRI S. GURUSANKARAN ... MEMBER (A)

HON'BLE SHRI A.N. VUJJANARADHYA ... MEMBER (J)

APPLICATION No.478/1989

Smt. N. Tripuramba,
Statistical Assistant,
Office of the Director of
Census Operation in Karnataka,
No.21/1, Mission Road,
Bangalore - 560 027. ... Applicant

(Shri B.G. Sridharan ... Advocate)

Vs.

1. The Registrar General of India,
Kotah House, Mensingh Road,
New Delhi-11.

2. The Director of Census Operations
in Karnataka, No.21/1. Mission Road,
Bangalore-560 027.

3. Shri L. Ramachandra,
Statistical Assistant,
Office of the Director of
Census Operations in Karnataka,
Mission Road, Bangalore-560 027.

4. Shri M.S. Nagaraj,
Statistical Assistant,
Office of the Director of
Census Operations,
No.21/1, Mission Road,
Bangalore-560 027.

5. Joint Director of Census Operations,
No.21/1, Mission Road, Bangalore-27. ... Respondents

(Shri M. Vasudeva Rao ... Advocate)

This application, having come up before this Tribunal
today for orders, Hon'ble Shri S. Gurusankaran, Member (A) made
the following:

O R D E R

In this application filed under Section 19 of the
Administrative Tribunals Act, 1985, the applicant is aggrieved



by the denial of promotion to the cadre of Statistical Assistant with effect from the date on which Respondents (R for short) No.3 and 4 were promoted and also the ranking assigned to her in the latest gradation list of Statistical Assistant issued on 27.3.1989. She has prayed for the following reliefs:

I) Issue an appropriate order or direction directing Respondents 1,2 and 5 to confer the benefit of deemed promotion as Statistical Assistant with effect from 27.7.1970, the date on which her juniors viz. Respondents 3 and 4 were promoted as per the order dated 27.2.1989 marked as Annexure-A5.

Alternatively

Set aside the order dated 27.2.1989 issued by the Joint Director of Census Operations, in Karnataka, Marked as Annexure-A5.

II) Issue an appropriate order setting aside the impugned endorsement dated 21.4.1989 issued by the Joint Director of Census Operations, Karnataka, marked as Annexure-A9.

III) Issue an order directing Respondents 1,2 and 5 to follow the final gradation list of non Gazetted officials of the Directorate of Census Operation in Karnataka published as per Official Memorandum dated 20.12.1975 marked as Annexure-A3 and not to follow the final gradation list of non-Gazetted officials as on 1.7.1987 published through corrigendum dated 27.3.1989 marked as Annexure-A7 and allow this application with costs in the interest of justice.

2. The applicant's case is as follows. She joined the Census Department as Sorter on 30.5.1961, while R3 and R4 joined as Sorters on 25.7.1961 and hence the applicant is senior to R3 and R4. In the gradation list of officials working in the Census office, Mysore State, as on 1.12.1963 published vide Official Memorandum dated 2.3.1964, the applicant is placed at sl.No.8, while R3 and R4 are placed at sl.No.12 and 16 respectively. In the year 1966, the services of the

applicant along with that of R3 and two others was sought to be terminated by the Department arbitrarily. Against the said termination, the applicant and the other officials filed writ petitions in the High Court of Karnataka. W.P. 294/66 filed by the applicant was allowed on the same lines as W.P. 362/66 filed by one Smt. Singamma. While allowing the writ petitions, the High Court quashed the order of termination with all consequential benefits. It was clearly held by the High Court that the Department had wrongly terminated the services of the applicant retaining her juniors and the principle of "Last come First Go" was not followed. The applicant was ordered to be reinstated with all consequential benefits such as continuity of service, back wages, seniority, etc. Thus, the applicant's service right from 30.5.1961 was continuous. On 22.6.1973, Official Memorandum at Annexure-A2 was issued calling for objections. In para 2 of the said Official Memorandum, it was expressly stated that R-3 is to be assigned a rank immediately below the applicant thereby R-3 was proposed to be junior in the said list. It appears that R-3 filed objections against the provisional list. After considering all objections, the gradation list was finalised and Official Memorandum dated 20.12.1975 (Annexure-A3) was issued showing the final gradation list as on 1.3.1975. In this gradation list also the applicant was shown at Sl.No.7, while R3 was shown at Sl.No.8. The applicant was promoted as Statistical Assistant on 7.6.1971 on the basis of the recommendations of the Departmental Promotion Committee which met on 27.7.1970, i.e., much earlier to the developments mentioned above. Subsequently, she was reverted on administrative grounds and later by a common order dated 30.9.1978 (Annexure-A4) both the applicant and R-3 were promoted as Statistical Assistants as per the recommendations of the DPC of 1970. Another order dated 27.2.1989 (Annexure-A5) was issued by which R-3 and 4 along with two others were sought to be given the benefit of



retrospective promotions as Statistical Assistants with effect

from 27.7.1970 on the basis of the DPC meeting held on 27.7.1970.

This order at Annexure-A5 is issued 19 years after the DPC had met and made its recommendations in 1970. Further, the applicant's case also was recommended by the very same DPC held on 27.7.1970, but, her name has not been included in Annexure-A5 for retrospective promotion. Being aggrieved by the denial of her promotion from the date R-3 and 4 were promoted as Statistical Assistants, the applicant preferred a representation dated 3.3.1989 (Annexure-A6), but, there was no reply. On the other hand, another final gradation list in the grade of Statistical Assistant as on 1.7.1987 was published along with the corrigendum dated 27.3.1989 (Annexure-A7). The applicant is not aware of the earlier order dated 21.3.1989 referred to in Annexure-R7. The order also speaks of fixation of inter-se seniority as on 1.3.1975 published on 20.12.1975, but the applicant's case has not been touched in any way.

3. The Respondents have filed their reply contesting the application on various grounds.

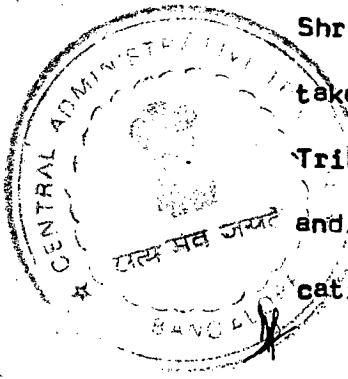
4. We have heard Shri B.G. Sridharan for the applicant and Shri M.V.Rao for the Respondents. It is seen that even though this application was filed in May, 1989 and the reply was filed in August, 1989 by the official Respondents R-1, 2 and 5, the final hearing of this case was delayed due to various reasons. On the other hand, similar applications concerning the seniority list of Statistical Assistants have been disposed off viz., O.A. 859-863/89, 428-430/92, 543/91 and 19/92. Finally, the present application was heard and the orders reserved for 22.5.1992. However, it was directed by the Bench that the O.A. should be kept pending till after the implementation of the directions given in O.A.543/91 vide order dated 22.5.1992. Finally, when the applicants in O.A.543/92 filed

C.P. 37/92 alleging wilful disobedience of the orders of the Tribunal dated 22.5.1992 in O.A.543/92, it was decided to hear the present application along with C.P.37/92.

to along with this O.A.

5. We have heard C.P.37/92 ~~today~~ and dismissed the same vide separate orders. It is also seen R-4 in the present application is applicant No.3 both in O.A.543/91 and C.P.37/92. ~~is R-3 and~~ However, R-4 has not filed reply in the present application and contested the application. Further, during the hearing it is seen that the Respondents No.1,2 and 5 vide order dated 5.7.1992 have cancelled the provisional seniority list dated 21.3.1989 and directed that the seniority list of Statistical Assistants dated 17.8.1988 is to be treated as final. It is also stated in the order dated 5.7.1992 that the order dated 27.2.1989 according retrospect promotions to R-3 and 4 and two others as Statistical Assistants with effect from 27.7.1970 has been cancelled.

6. In view of the above, we asked the counsel for the applicant that since the order dated 27.2.1989 has been cancelled by the Respondents, whether the application has become infructuous. We also pointed out to him that the applicant has not mentioned anything about the seniority list dated 17.8.1988, which has ~~not~~ been treated as final. It is not known whether the applicant has any grievance against the seniority list of 17.8.1988 and in any case that is not the subject matter in this application. The counsel for the applicant, in all fairness stated that in view of the cancellation of the order dated 27.2.1989 giving retrospective promotion to R-3 and 4, the applicant does not have any grievance and accordingly the application has become infructuous. The counsel for the Respondents, Shri M.V.Rao also stated that in view of the subsequent decision taken by the Respondents in the light of the orders passed by this Tribunal in the connected O.As. viz., 859-863/89, 428-430/92, 543/91 and 19/92, the reply already filed by the Respondents in this application has to be modified and hence the main relief prayed for by the



applicant has already been granted.

7. In the light of the above, we find that the applicant has already been granted the main relief prayed for and the application is disposed off as having become infructuous.

Sd-

MEMBER (J)

Sd-

MEMBER (A)

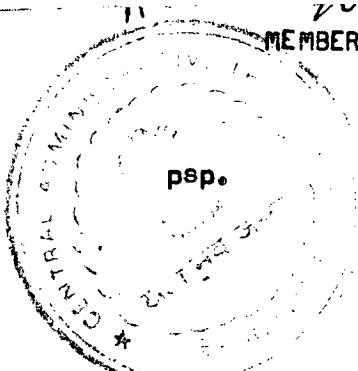
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SECTION OFFICER

ADDITIONAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

BANGALORE



ppd.