

rel

16

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD

O.A.No.772 of 1987.

Date of Judgment 24-1-90

P.Ch.S.Jagannadha Rao  
and two others ... Applicants

Versus

The Union of India  
represented by the  
Registrar General,  
Census, Government  
of India, New Delhi  
and another ... Respondents

Counsel for the Applicants : Shri J.V.Lakshmana Rao

Counsel for the Respondents: Shri E.Madan Mohan Rao

CORAM:

HONOURABLE SHRI J.NARASIMHA MURTHY : MEMBER (JUDL)

HONOURABLE SHRI R.BALASUBRAMANIAN : MEMBER (ADMN)

[Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(Admn)].

1. This is an application filed under section 19  
of the Administrative Tribunal Act by Shri  
P.Ch.S.Jagannadha Rao and two others against the  
Union of India and another. The three applicants  
had been working as ad-hoc and temporary Lower  
Division Clerks in the Office of the Regional  
Tabulation, Vizianagaram, Nizamabad and Khammam  
from dates between 18.9.80 and 14.7.81. Later,  
during June, 1982 they were all transferred to  
the Director, Census Operations, Hyderabad.

.....2

1/3/85  
24/1/90

62

62

pointed  
They have made out that when they joined the organisation there was no recruitment rule and later only on 11.9.84 the recruitment rules came into being. These applicants were required to pass certain special tests and it is their point that although three tests have been held in the past in 1982, 1983 and 1985 they were allowed to appear only for the tests conducted in 1983 and 1985. Their services were terminated on 9.12.86 just before the 1987 examination which was held in March, 1987. It is their point that they had put in more than 5 years of uninterrupted service and that they are eligible for quasi-permanency status. They have also pointed out that they should have got three chances to appear for the examination and that without being given one more chance to appear in the 1987 examination their services had been terminated. They have prayed that the Tribunal quash the order No.A.12019/1/83-Estt(2) dated 9.12.86 by which their services were terminated.

2. The prayer of the applicants had been opposed by the respondents. The respondents have pointed out that it is not correct to say that the recruitment rules came into being only in November, 1984. They have stated that the recruitment rule was in vogue even in 1973.

7.3

.....3

P2  
2/11/90

Originally there were separate recruitment rules for various Directorates. The Registrar General of India had brought out a revised and common recruitment rule for the post of Lower Division Clerk throughout the Census organisation including the Registrar General's office and notified vide his order dated 15.9.84. It is the contention of the respondents that all the applicants were appointed purely on a temporary and ad-hoc basis and they were required to pass the special test to be held by the Staff Selection Commission before regular absorption. According to them, it is the Staff Selection Commission that should normally provide clerks to them and that as a special measure those who were recruited other than through the Staff Selection Commission to meet exigencies were to be regularised only after passing the special tests. This had been made amply clear while offering the ad-hoc appointments to the applicants. In para 2(iv) of the original offer of appointment it has been stated that ~~the~~ <sup>the officer</sup> the appointment will be regularised only if sufficient number of posts are available and ~~he~~ <sup>the</sup> qualifies in the prescribed test/interview ~~by~~ <sup>of</sup> the Staff Selection Commission for filling up such vacancies. It is the respondents' case that when on the first opportunity they were allowed to appear

for the test held in 1983 the applicants did not pass. Their services should have been terminated immediately thereafter itself in terms of the Department of Personnel's letter dated 30.9.86 (annexure IV to the counter). However, they continued and were given one more chance to appear for the test held in July, 1985 in which also the applicants had failed. The examination held in 1985 was a special one and since the applicants did not qualify even in that, their services had to be terminated in keeping with the instructions dated 30.9.86 which insisted on the termination with effect from 30.9.86 itself. They have stated that nowhere has it been laid down that the ad-hoc clerks should be given three chances to appear in the examination.

3. We have gone through the case and heard both the sides. In the course of hearing the learned counsel for the applicants produced the notice of 1987 examination and referred to the note at page 2 of the notice of examination. The note states that the candidates who appeared in the special qualifying examination held in 1982, 1983 and 1985 as eligible candidates and failed to qualify were not eligible to take the special qualifying examination 1987. It is his contention that only those who failed on <sup>the</sup> three occasions in 1982, 1983 and 1985 are not eligible and that those like the applicants who had

appeared and failed only in two examinations in 1983 and 1985 should have been permitted to appear for the 1987 examination.

3.1 The question before us is whether the respondents should have given them a third chance before terminating their services. We had heard the learned counsel for the respondents and find from the annexures to their counter that the respondents had never committed to give three chances to the candidates. From their letter dated 23.10.79 (annexure II to the reply) we find insistence on taking candidates only through the Staff Selection Commission and that as a special case to protect those personnel recruited by the Census organisation for temporary vacancies for the 1981 Census work, appointment was permitted after they passed either the relevant examination of the Staff Selection Commission or the examination to be specially organised by the Commission for that purpose. They had indicated that those who failed to clear in that examination would have to face retrenchment. This condition that had clearly been stipulated at the time of making the ad-hoc offer of appointment. An examination was held in 1982 and the turnout was very poor. As seen from the Ministry of Home Affairs letter dated 17.8.83 (annexure III to the reply) it had been decided to give a final chance to all ad-hoc

PS  
20  
24/11/80

U

.....6

employees for regularisation and that the examination was to be held on 18.12.83. It had been stated in that letter that the services of ad-hoc employees who failed to qualify in that special examination should be terminated immediately after the results of the examination were declared. The applicants appeared for that examination and failed. Later, another special qualifying examination was held in 1985 and the candidates failed in that examination also. It was at this juncture that the respondents issued a letter dated 30.9.86 (annexure IV to the reply) that the services of all ad-hoc employees who had not qualified should be terminated with effect from 30.9.86. When they decided to hold a supplementary special qualifying examination for 1987 the respondents restricted it to only those who could not or did not appear in the 1985 examination for various reasons. Failure in the 1985 examination was enough to make him ineligible for this supplementary 1987 examination. In the letter dated 10.11.86 (annexure VII) they have again stressed that the services of those ad-hoc Lower Division Clerks who appeared and failed in the special qualifying examination held in 1985 be terminated.

PC  
2/26  
4/12/90

.....7

4. From the aforesaid we find that there is nothing illegal about the termination of services of the ad-hoc clerks. We do not accept the contention of the applicants that they should be given three chances. On the other hand we find that against one chance they had already had two chances and failed. In the result the application fails. There is no order as to costs.

*MS*  
( J. NARASIMHA MURTHY )  
Member (Judl).

*R.Balasubramanian*  
24/1/90  
( R. BALASUBRAMANIAN )  
Member (Admn).

~~24-1-90~~  
Dated 24-1-90

*S. Venkatesh*  
DEPUTY REGISTRAR (J).

TO:

1. The Registrar General Census, Government of India, (Union of India), New Delhi.
2. The Director of Census Operations, Hyderabad.
3. One copy to Mr. J.V. Lakshmana Rao, Advocate, Flat No. A-3, Ground Floor, Balaji Towers, New Bakaram, Hyderabad-500 390.
4. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC., CAT., Hyderabad.
5. ~~One copy to Mr. R. Balasubramanian, Member (Admn), CAT, Hyderabad,~~
6. One spare copy.

...  
kj.

OA.772/87

Case Number	OA.772/87
Date of Judgement	24.1.90
Copy made ready on	25.1.90
S. Venkatesh Section Officer (J)	