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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.591/91.

Dt. of Decision: 27.6.1991.

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|----------------------------|-----------------------|
| 1. K.V.V.Satyanarayana Rao | 23.D.Vijaya Lakshmi |
| 2. B.Ramakrishna | 24.V.Kanaka Manikyam |
| 3. Ch.Rama Rao | 25. B.Usha Raj. Kumar |
| 4. P.Kalyana Rao | 26.V.Simhachalam |
| 5. G.Babu Raja Prasad | |
| 6. K.V.V.Satyanarayana | |
| 7. G.A.Nirmala | |
| 8. K.Kalyani | |
| 9. G.V.V.S.Nageswara Rao | |
| 10.P.Vasanta Rao | |
| 11.T.V.Swamy Naidu | |
| 12.K.Hanumantha Rao | |
| 13.Medidi Suryanarayana | |
| 14.T.Uppanna | |
| 15.V.Venkateswara Rao | |
| 16.G.S.N.Sarma | |
| 17.D.L.N.Sastry | |
| 18.S.Chella Rao | |
| 19.Pusarla Adi Vishnu | |
| 20.M.S.R.Lakshmi | |
| 21.B.Suryanarayana | |
| 22.N.S.G.Vydehi | |

....Applicants

Vs.

1. The Director of Census Operations,
Department of Home Affairs, Government of
India, 1st Floor Pioneer House Buildings,
Punjagutta, Hyderabad.
2. The Regional Dy.Director of Census
Operations, Visakhapatnam.
3. The Regional Dy.Director of Census
(Officer incharge) Behind Chanakya
Chandragupta Theatre complex, Kakinada.

....Respondents

Counsel for the Applicants : Shri N.Ram Mohan Rao

Counsel for the Respondents : Shri N.V.Ramana, Addl.CGSC

contd...2.

CORAM:

THE HON'BLE SHRI B.N.JAYASIMHA : VICE-CHAIRMAN

(Order of the Single Bench delivered by
Hon'ble Shri B.N.Jayasimha, Vice-Chairman)

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M.A.679/91 ordered.

The applicants who are 26 in number have filed this application aggrieved by the proceedings RC No.1/91 RDD/KKD Dt.4-6-1991 by which their services have been terminated.

2. The applicants state ^{that} the ^{for} purpose of data compilation during the Census, the Government of India has taken a policy decision for recruiting ~~the~~ persons who have retired from service, personnel connected with the previous census operations, ex-servicemen and persons who have all crossed the normal age for recruitment into the Government service.

3. Eighty per cent of the posts were to be recruited preferably by retired persons and Ex-servicemen. In regard to 20% the unemployed educated youth were to be given opportunity for employment. The applicants submitted their applications to the 2nd Respondent, who was incharge of the Kakinada region. At a short-notice, interviews were conducted, after verifying the educational record and also the basic working knowledge of the candidates and after an assessment as to their suitability for employment, Respondents 2 and 3 appointed the applicants as compilers between 24-4-91 and 16-5-91. They were entrusted with the task of

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compiling individual data and the responsive house hold data. Each individual was required to turn out on an average 800 sheets of information to be compiled each day. To over-see the work there were one checker over 6 compilers and for 18 compilers, there was one supervisor. The applicants who were recruited as compilers were asked to execute a bond containing certain terms of appointment, and the conditions envisage that the nature of appointment itself is a timebound programme. It was also set out that by a Calender month's notice, the service can be brought to an end without finding any cause. Suddenly the 1st respondents ~~xxxx to xxxx~~ issued telephonic instructions directing the termination of the services of the applicants. Accordingly the Respondents 2 and 3 terminated the services of the applicants with effect from 5-6-1991. It was stated that the termination is due to to the fact that the applicants have not taken written test before their appointment. The applicants contend that there are several vacancies still lying and the recruitment process for those vacacnies was still going on. At the time when they were recruited, the authority who ^{was} ~~were~~ required to recruit was not notified that a written test was a pre-requisit. The policy decision of the Government doesnot contemplate ^{holding} ~~to hold~~ a written test. The tremendous response which the scheme started receiving in recent times cannot be a ground for denying the employment already offered to the applicants.

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4. The applicants also state that it is fact that the Respondents 2 and 3 have denied some of those who have submitted their application, after being satisfied that they may not be able to measure upto the quantum of work required to be turned-up. Such persons out of sheer frustration, misunderstood the scheme of employment given to the others and about the method and manner in choosing the candidates. Such irresponsible and untenable claims have no rational basis for being given any legal credence. Respondent No.1 seem to have decided more perhaps with a view to keep the purity of the Public Administration and keep the organisation beyond the reach of the petitioner-mongers issued instructions for the termination of the services of the applicants, but the Respondent No.1 has not considered the implications of such a decision. The applicants services could not have terminated without a fair and reasonable procedure with due adherence to the principles of natural justice.

5. The applicant have reached the age where they can never think of getting employment in Government or Government Agencies. It is further contended that their services have been terminated without assigning any reasons except stating that they have not come through written test. Hence they have filed this application.

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6. The Respondents in their reply state that the applicants have filed this application without making any representation to the higher authorities and have not availed ^{themselves of} the alternative remedy. In accordance with the instructions issued by the Government of India, wide publicity was given through Radio and Television notifying the temporary posts of Supervisors/Checkers/Compilers inviting applications from the eligible retired employees of State/Central Government Departments etc.,. As sufficient retired personnel were not available in some of the Regional Tabulation Offices it ~~has been~~ ^{has been} also ~~been~~ decided by the competent authority to fill up 20% of vacancies through the Employment Exchanges. As these posts exist in 12 different Regional Tabulation Offices, to stream line the selection of candidates and their subsequent appointment on contract basis, the Director of Census Operations has devised a procedure to ensure that the selections are made without any bias, interference and to follow the rule of natural justice and fair play. Accordingly ~~as~~ a D.O.Lr.No.A.12019/4/90-Estt., dt.14-3-91 was issued to all the Dy.Directors heading the Regional Tabulation Office asking them to recommend for appointment to the posts meant for retired/ex-service personnel on first come first serve basis after verifying that they are physically fit and mentally alert. For the remaining 20% posts, the Dy.Directors were required to approach the Employment Exchange and conduct an examination. To avoid any undue influence, the examination papers

were sent from the Head Office and the answer books were sealed immediately after examination and brought to Head Office where they are being valued by the examiners.

Immediately thereafter a merit list is prepared. Basing on the merit list prepared and sent by the Director's Office, the Dy. Director will recommend a list of candidates after verifying qualifications, caste certificates and other documents for appointment to the posts. To ensure total objectivity in the selection, it has been specifically stated that no interview under any circumstances will be conducted and the candidates will be selected purely on the basis of written examination.

6. In the instant case the applicants were not retired employees. They cannot be considered on a more favourable footing than the candidates sponsored by the Employment Exchange who are being selected and recommended for appointment based on results of an examination. There are a large number of candidates who are above 35 years of age who have applied to the Regional Dy. Director or to the Director of Census Operations along with for before the applicants. To meet the ends of justice all such candidates will have to be given opportunity along with applicants. However without following the procedure outlined by the Director of Census who is the competent authority, the Investigator who is working in the Regional Tabulation Office at Kakinada has recommended the

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names of the applicants for appointment and informed that he has admitted the applicants to duty. The action of the Investigator to say the least is without any authority and in the absence of any contract having been signed by the competent authority cannot create a vested interest for the applicants. The services of the applicants were dispensed with from the Regional Tabulation Office, Kakinada as their admission to duty is not based on the prescribed procedure and in violations of executive instructions issued by the 1st Respondent. It is further stated that a separate examination will be held in respect of all the applicants who are above 35 years of age and for which the applicants ^{will} ~~also be~~ allowed to participate. The case of the applicants will be considered ^{based} ~~passing~~ on the relative merits along with others. For these reasons the respondents oppose the application.

7. I have heard Shri N.Ram Mohan Rao, learned counsel for the applicants and Shri N.V.Ramana, learned standing counsel for the Respondents. While Shri Ram Mohan Rao states that the applicants having been admitted to duty the Respondents could not have terminated their services only on the ground that prescribed procedure has not been followed, ~~and~~ Shri Ramana states that the procedure has been evolved to ensure fair and equal chance to ~~the~~ all the candidates for appearing to the test and basing on the performance they would be offered appointment. Not to do

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so would cause grave injustice to the other persons ^{who had} applied but were not considered properly.

8. On a consideration of the facts narrated above it is clear that the applicants were appointed by the Investigator without any authority. In any event the applications are not barred for employment and they were being given fair opportunity to compete along with the other candidates. If they are included in the merit list, they will be offered employment. All that Respondents have done is to ensure fair play in the matter of appointment and for ensuring this the services of the applicants who were taken to duty contrary to instructions were dismissed. In this view I am unable to agree that the applicants services have been terminated arbitrarily. Shri N.V.Ramana states that an examination will be conducted very shortly. In the result I find no merits and dismiss the application. No order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
Vice-Chairman

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Dated: 27 June, 1991.

83/7/91
Deputy Registrar(A)

- To
avl/ 1) The Director of Census Operations, Dept. of Home Affairs, Govt. of India, 1st Floor Pioneer House Buildings, Panjagutta, Hyderabad.
2. The Regional Dy. Director of Census Operations, Visakhapatnam.
3. The Regional Dy. Director of Census (Officer incharge) Behind Chanakya Chandragupta Theatre Complex, Kakinada.
4. One copy to Mr. N. Rammohan Rao, Advocate, 714 'B' Block, Brindavan Apartments, Red Hills, Hyderabad.
5. One copy to Mr. N.V. Ramana, Addl. CGSC. CAT. Hyd.
6. One spare copy.

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CHECKED BY *ws*

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3/2/91
COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

THE HON'BLE MR. B. N. JAYASIMHA: V.C.

AND

THE HON'BLE MR. D. SURYA RAO: M(J)

AND

THE HON'BLE MR. J. NARASIMHA MURTHY: M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 27th 6-1991.

~~ORDER~~ / JUDGMENT.

M.A./R.A./C.A. No.

in

T.A. No.

W.P. No.

O.A. No. 591/91

Admitted and Interim directions
issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

M.A. Ordered/Rejected.

No order as to costs.

