

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH : AT HYDERABAD

OA No.1228/93.

Dt. of Order:6-10-93.

1. Smt.A.C.E.Fernandez
2. Kum.D.Sheela Rani

...Applicants

Vs.

1. The Director of Census Operations,
Government of India, A.P.,
Hyderabad.
2. Sri P.K.Dhanizia,
Under Secretary to Govt. of India,
Staff Selection Commission,
CGO Complex, Block-12,
Lodhi Road, New Delhi-110 003.

...Respondents

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Counsel for the Applicants : Shri M.Pandu Ranga Rao

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

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CORAM:

THE HON'BLE JUSTICE SHRI V.NEELADRI RAO : VICE-CHAIRMAN

THE HON'BLE SHRI P.T.THIRUVENGADAM : MEMBER (A)

(Order of the Divn. Bench passed by Hon'ble
Justice Shri V.Neeladri Rao, VC).

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The two applicants were initially appointed
as Junior Stenographers for 1991 census work as per order
dt.14-12-90. Their appointments were being extended from
time to time ~~and~~ and all the other Stenographers who

were appointed along with these applicants for 1991 Census were removed from service with effect from 31-12-1992. But the services of these applicants were extended in view of the further work in connection with 1991 Census. By order dt.18-3-93 the services of these two applicants were extended up to 31-12-1993 in the Temporary posts which were extended up to that date. There it was stated that those two Temporary posts are in connection with 1991 Census work.

2. The Ministry of Personnel, Public Grievances and Pension issued O.M. No.28036/10/92-Estt (D) laying down a scheme of special qualifying examination, 1993, to be conducted for ~~those~~^{all} employees who are working on adhoc basis ~~or~~ⁱⁿ regular posts of Lower Division Clerk's/Grade 'D' Stenographers. When the two applicants requested Respondent No.1 to send their applications for the said examination, the same was refused. Thus this Original Application was filed praying for a declaration that the action of the Respondent No.1 in not forwarding the applications of these applicants to Respondent No.2 as per order dt.23-9-93 is illegal, arbitrary and violative of Article 14 and 16 of constitution of India and to further direct Respondent No.1 to forward their applications to Staff Selection Committee and to direct the Respondents to regularise their services from the

dates they are discharging duties of regular office work.

3. It was pleaded inter alia for the applicants that the posts in which they are working are of regular nature and they arose due to the resignation of the original holders of the posts. In the counter affidavit of the Respondent No.1 it is stated that the applicant No.1 was appointed on adhoc basis in the Temporary post sanctioned for 1981 Census, and the applicant No.2 was appointed against the Temporary post sanctioned for 1991 Census.

4. There are regular rules of recruitment to fill up various categories of ^{regular} posts in each department. But as and when a necessity arises to make adhoc appointments, the same is resorted to. The rules are to the effect that normally the adhoc appointment should not be made for a period more than six months, but due to exigencies the services of those who are appointed on adhoc basis were being extended even ~~by~~ beyond six months. Hence as one time measure the Government ~~conducts~~ ^{conducts} special qualifying examination for those who are working on adhoc basis in regular posts so as to regularise their services. Hence the O.M.No.28036/10/92-Estt (D) was

issued for the said purpose. Para-12 of the said O.M. is relevant and it reads as under :-

12. SELECTION OF CANDIDATES:

After the Examination the Commission will forward the names of those candidates who have attained the qualifying standard to be determined at the discretion of the Commission for regularisation in the respective offices where they are working as ad hoc LDCs/Grade 'D' Stenos. The names of the candidates who will be considered for regularisation on the results of the SQE shall be arranged in a single list on the basis of their position depending upon the total marks obtained by them in the written examination (plus Stenography Test in case of ad hoc Stenos) for determining their seniority etc.,."

It is evident from the above para that this qualifying examination is intended only to those LDCs/Grade 'D' Stenos who are working on ad hoc basis in regular posts. Hence it had to be seen whether these two applicants were appointed in the regular posts. Even the latest order dt. 18-3-93 discloses that the services of these two applicants were continued on adhoc basis ~~only on~~ ⁱⁿ Temporar y posts, but not in the regular posts. In the counter it is stated that there is only one regular post of Junior Steno Grade 'D' in the office of Respondent No.1 and when it had fallen vacant the Surplus Cell was

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contacted for furnishing no objection certificate for filling up the same and when that certificate is given, the Registrar General was addressed for consideration of request transfer of Junior Stenographer Grade 'D' from the Ministry of Home Affairs to the Office of the Respondent No.1.

5. But it is the plea of the applicants that they are discharging the duties of regular Junior Stenographer. It had to be noted that appointments can be made only against sanctioned posts. When once the appointments are made, then there may not be any difference in regard to the work that may be discharged by an employee appointed as against regular post or an employee appointed against Temporary post. At many a time there may not be water tight compartmentalisation in regard to the ~~weak element~~ ^{entertainment of work} Hence the question arises whether a particular employee is appointed against Temporary post or regular post the ~~same~~ has to be considered on the basis of the order of appointment and not on the basis of actual duties discharged. So for consideration of this Original Application the question of what duties the applicants are discharging is not relevant and the nature of post against which the appointment was made is relevant. It is clear from the order of appointment that

STAN J.

6/1/93
6/1/93

TO
a/v/l/

Dated: 6th October, 1993.
Dictated in Open Court.

1. The Director of Census Operations,
Govt. of India, A.P., Hyderabad.
2. One copy to Mr. M. Panduranga Rao, Advocate, A.P.A.T.
Advocates Association, Hyderabad.
3. One copy to Mr. N. V. Rama Rao, Addl. CGS, CAT, Hyd.
4. One copy to Library, CAT, Hyd.
5. One spare copy.

PM

P.T. THIRUVENGADAM
(V. NEELADRI RAO)
Member (A)
Vice-Chairman

A.D.L.S

admission stage. No order as to costs.

Initially this original application is dismissed at the

order dt. 23-9-93 in not forwarding the applications of

the plea of the respondents that there is no error in the

posts but not against regular post. We thus agree with

these applicants were appointed only as against temporary

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TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL)

AND

THE HON'BLE MR.P.T.TIRUVENGADAM: M(A)

Dated: 6 - 10 - 1993

~~ORDER~~ JUDGMENT:

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

in
O.A.No. 1228/93

T.A.No. (W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

pvm

