

(43)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD.

M.A.NO.653 of 1994 in O.A.NO.1619 of 1993.

Between

Dated: 26.7.1995.

A.Sivaram Prasad

...

Applicant

And

1. Union of India represented by its Secretary, Ministry of Home Affairs, Government of India, Secretariats, New Delhi.
2. The Registrar General of India, Ministry of Home Affairs (Census Operations), Government of India, 2/A, Mansingh road, New Delhi.
3. The Director of Census Operation, A.P. Ministry of Home Affairs, Government of India, 6-3-653, Pioneer House, Somajiguda, Hyd.

Respondents

Counsel for the Applicant : Sri. J.Sudheer

Counsel for the Respondents : Sri. K.Bhaskara Rao, Addl. CGSC.

FORAM:

Hon'ble Mr. A.B.Gorthi, Administrative Member

Contd:...2/-

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M.A.No.653/94 in  
O.A.No.1619/93

Date of Order: 26.7.95

X As per Hon'ble Shri A.B.Gorthi, Member (Admn.) X

\* \* \*

In this MA the prayer is for a direction to the respondents to implement the directions given in OA.1619/93 on 9.3.94.

2. The first direction to the respondents is <sup>that</sup> ~~if~~ the applicant should be offered appointment in case of any vacancy arising in the cadre of Draughtsman in the office of R3 in 1991. The case of the applicant is <sup>that</sup> ~~the~~ 2 additional posts were sanctioned, though on a temporary basis, and one Syed Ahmed, Senior Artist retired on 1.7.94. ~~any of the consequential vacancies the applicant could~~ have been offered <sup>appointment</sup> ~~a post~~.

3. The respondents in their ~~order~~ stated that there were 2 employees namely Smt. Subba Lakshmi and Sri Gulam Hasan Mohiuddin, both senior to the applicant having been recruited for 1981 Census Operations. With a view to have them adjusted, <sup>a</sup> ~~the~~ case was taken up with the Registrar General for additional posts. Accordingly 2 additional posts were transferred from State of MP to State of A.P. vide memo dated 9.3.95. The conditions stipulated in the said order transferring 2 posts to A.P. are as under:-

"The transfer of the posts is purely temporary. The transferee Directorate shall not fill up the vacancies arising out of superannuation or otherwise ~~if~~ the number exceeds the number of posts transferred to them. As soon as that happens the transferred posts shall stand restored to the Directorate of origin."

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4. The respondents case is that Smt. Subba Lakshmi and Sri Gulam Hasan Mohiuddin were adjusted against the 2 transferred posts.

5. The contention of Mr. J. Sudheer, learned counsel for the applicant is that thereafter when Sri Syed Ahmed retired and in the consequential vacancy when Smt Subba Lakshmi was adjusted the respondents instead of restoring one temporary post to the State of M.P. should have considered the applicant for appointment in that post. According to the applicant's ~~contention~~ <sup>are</sup> required to be restored together after 2 Draughtsmen ~~would~~ <sup>would</sup> be adjusted against the routine wastages. As only one post was adjusted, ~~which~~ <sup>it</sup> need not have <sup>been</sup> restored immediately to ~~the State of M.P.~~

6. It will be difficult to accept the ~~condition~~ <sup>contention</sup> of the learned counsel for the applicant because the conditions specified in the memo dated 9.3.94 ~~does~~ <sup>do</sup> not stipulate that both the temporarily shifted posts have to be restored ~~simultaneously~~ <sup>at once</sup> of them is restored it cannot be said that the respondents acted improperly or unfairly. Notwithstanding the same it may be stated that ~~the~~ <sup>if</sup> factually restored to the State of M.P., the respondents may consider giving appointment to the applicant against that post with a clear understanding to the ~~fact~~ <sup>fact</sup> that when both the posts stand reverted to the State of M.P. he will be out of job once again. It will however be without prejudice to ~~other~~ <sup>his</sup> claims for appointment ~~in~~ <sup>in</sup> the department.

Copy to:-

1. Secretary, Ministry of Home Affairs, Union of India, Govt. of India, Secretariats, New Delhi.
2. The Registrar General of India, Ministry of Home Affairs (Census Operations), Govt. of India, 2/A, Mansingh road, New Delhi.
3. The Director of Census Operations, A.P. Ministry of Home Affairs, Government of India, 6-3-653, Pioneer House, Somajiguda, Hyd.
4. One copy to Sri. J. Sddheer, advocate, CAT, Hyd.  
CCSC CAT? Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

nam/-

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7. In Union of India vs. Dinesh Kumar Saxena 1995 SCC (L&S) 696 the Hon'ble Supreme Court gave certain directions. It will suffice if we reproduce Head Note 'B':-

"Ends of justice will met if the Directorate of Census Operations, U.P. is directed to consider those respondents who had worked temporarily in connection with the 1981 and/or 1991 census operations and were subsequently retrenched, for appointment in any regular vacancies which may arise in the Directorate of Census Operations and which can be filled by direct recruitment, if such employees are otherwise qualified and eligible for these posts. For this purpose the length of temporary service of such employees in the Directorate of Census Operations should be taken into consideration for relaxing the age bar, if any, for such appointment. Suitable rules may be made and conditions laid down in this connection by the department. The department also consider giving weightage to the previous service rendered by such employees in the Census Department and their past service record in the Census Department for the purpose of their selection to the regular posts".

8. In view of the above it is open to the applicant to make a representation to the department for consideration of his case in terms of the judgement of the Supreme Court.

9. Mr. J. Sudheer further requests that the applicant is not aware as to what <sup>is</sup> ~~is~~ happening to his case which is said to be <sup>referred to</sup> surplus cell. In this context the respondents may intimate the applicant within a period of 2 months from the date of communication of this order, <sup>to</sup> present position of the case pertaining to sending the name of the applicant to the surplus cell.

10. M.A. is thus disposed of.

  
(A.B. GORTHI)  
Member (Admn.)

(Dictated in Open Court)

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Dy. Registrar / 17

Contn... 5/-

In the C.A.T., Hyd Bench  
at Hyd.

A.B. Gorkhi, Am.

Judgement dt. 26/7/95

in

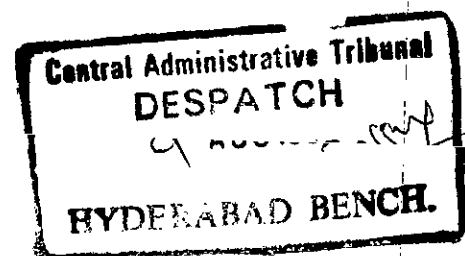
M.A. 653/94

in

O.A. 101/1994

M.A. disposed of. No  
order as in

No spare copy



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