(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 13.9.2000

OA No.93/93

1. Suresh Chand Saini S/o Shri Bhola Nath Saini, at present employed on the post of Statistical Assistant in the Office of Director, Census Operations, Rajasthan, Jaipur.
2. Babu Lal Verma S/o Shri Ram Chander Verma, at present employed on the post of Statistical Assistant in the Office of Director, Census Operations, Rajasthan, Jaipur
3. Ramesh Chand Gupta S/o Shri N.C.Gupta, at present employed on the post of Statistical Assistant in the office of Director, Census Operations, Rajasthan, Jaipur.

.. Applicants

Versus

1. Union of India through the Home Secretary, Government of India, Ministry of Home Affiars, New Delhi.
2. The Registrar General of India, 2-A, Man Singh Road, Kotah House Annexe, New Delhi.
3. The Director of Census Operations, Rajasthan, Jaipur.
4. Shri Kunj Behari Sharma, Computer, Officer of the Director Census, Jaipur.
5. Shri Gokul Chand Verma, Computer, Office of the Director of Census, Jaipur.
6. Shri Mahaveer Kumar Jain, Computer, Office of the Director of Census, Jaipur.
7. Shri Rajesh Kumar Mittal, Computer, Office of the

Director of Census, Jaipur.

8. Shri Arun Kumar Jain, Computer, Office of the Director of Census, Jaipur.

.. Respondents

OA No.493/93

S.K.Ajmera S/o Shri U.M.Ajmera at present posted as Computer in the Directorate of Census Operation, Rajasthan, Rambagh Annexe, Jaipur.

.. Applicant

Versus

1. Union of India through the Registrar General, Ministry of Home Affiars, 2-A Mansingh Road, New Delhi.
2. The Director Census Operation, near Rambagh Palace, Rajasthan, Jaipur.
3. Shri Kunj Behari Sharma, 79-B, Janta Nagar, Hatwara Road, Jaipur.
4. Shri Gokul Chand Verma, 12, Shri Ram Nagar Colony, Sanganer, Jaipur.
5. Shri Mahaveer Kumar Jain, House No. 2212, Diwan Shivji Ka Rasta, Kishanpole Bazar, Jaipur.
6. Shri Rajesh Kumar Mittal, House No. 10, Yamuna Bari, near Shiv Colony, Tonk Road, Jaipur.
7. Shri Arun Kumar Jain, House No. 1983, Haldiyon Ka Rasta, Johari Bazar, Jaipur.
8. Shri Bhawani Prasad Sharma, 389, Kewal Ram Niketan, Maniharon Ka Rasta, Jaipur.
9. Shri Satish Kumar Chaturvedi, NAI SIKSHA 12, Ugam Path, Banipark, Jaipur.

10. Shri Krishan Mohan Khandelwal, House No.34, Ganga Bihar, Gopalpura Road, Tonk Phatak, Jaipur.

11. Shri Mukesh Kumar Bhargava, B-203-A, Rajendra Marg, Bapu Nagar, Jaipur.

12. Shri Jawan Ram Jat C/o Director Census Operation, Rambagh Annexe, Jaipur.

13. Shri Shyam Sunder Sharma, Outside of Rawan Gate, Bagro Ka Mohalla, Renwal Road, Chomu, Jaipur.

14. Kumari Kusum Lata Yadav C/o Director Census Operation, Ram Bagh Circle, Jaipur.

15. Shri Bhanwar Lal Puldeep, House No. 32, Sunder Vatika, Behind Choudhary Petrol Pump, Tonk Road, Sanganer Thana, Sanganer, Jaipur.

16. Shri Hazari Lal Gupta, House No. 21 Roop Nagar-I, near Sawai Madhopur Railway Line, Tonk Phatak, Jaipur.

17. Shri Mahendra Kumar Jain, 9/231, Malviya Nagar, Jaipur.

18. Shri Rajendra Kumar Nagar, Baba Harish Chandra Marg, Ganesh Chowk, Chandpole Bazar, Jaipur.

19. Shri Hukum Chand Dabodia, Plot No. S-3, Ashok Chowk, Adarsh Nagar, Jaipur.

20. Smt. Kamlesh Sharma, Sector No. 13/468, Kaveri Path, Mansarowar, Jaipur.

21. Shri Mohan Lal Regar, Plot No.5, Behind Choudhary Petrol Pumpl, Near Sanganer Airport Circle, Tonk Road, Jaipur.

22. Shri Laxmi Narain Meena Village Barera, Post Jamdoli, Via Jhilai, Teh. Newai, Distt. Jaipur.

23. Shri Ved Prakash Singhal, C/o Director Census Operation, Rambagh Annexe, Jaipur.

24. Shri Mani Kant Sharma, House No. 2700, Jat Ka Kua ka

2. After sifting through the mass of the pleadings in these cases, we are able to glean some indisputed facts, which have general relevance to the controversy at hand. These OAs involve two sets of officials of the Census Department. One of these is composed of those who are applicants in these cases. These persons were appointed initially as Assistant Compilers in the Census Department on temporary/ad-hoc basis between 20.4.1977 and 26.4.1980. In course of time, they were promoted to the next higher post of Computers between 1980 and 1982 on temporary ad-hoc basis and regularised in the said post between November, 1982 and October, 1984. Inter-se seniority lists in respect of applicants as Computers were notified through office orders dated 14.10.1985 and after carrying out necessary modifications on receipt of representations called for in respect of any objections against the said seniority list, a final seniority list was also notified on 21.3.1989. Applicants in respect of OAs Nos. 93/93 and 493/93 were also promoted on temporary basis on the recommendations of a DPC, to the next higher post of Statistical Assistants vide order dated 22.1.1991. The applicant in OA No.202/94 was promoted to the said post vide order dated 22.1.1991, was proposed to be reverted vide order 31.12.1992, whereupon he filed an OA No. 38/1993, which was dismissed by this Bench of the Tribunal vide order dated 15.12.1992. Thereafter the impugned letter dated 11/12.3.1991 (Ann.A1 in OA No.93/93 and 202/94 and Ann.A12 in Oa No. 493/93) was issued by the respondent Nos. 2 by which the the other group of Computers (private respondents in these OAs) initially recruited on ad-hoc basis during, 1980-81, were conferred regular status from the prospective date but were also allowed to count their ad-hoc services in the respective grade of Statistical Assistants and Computers for the purpose of the seniority as well as eligibility for

10. Shri Krishan Mohan Khandelwal, House No.34, Ganga Bihar, Gopalpura Road, Tonk Phatak, Jaipur.

11. Shri Mukesh Kumar Bhargava, B-203-A, Rajendra Marg, Bapu Nagar, Jaipur.

12. Shri Jawan Ram Jat C/o Director Census Operation, Rambagh Annexe, Jaipur.

13. Shri Shyam Sunder Sharma, Outside of Rawan Gate, Bagro Ka Mohalla, Renwal Road, Chomu, Jaipur.

14. Kumari Kusum Lata Yadav C/o Director Census Operation, Ram Bagh Circle, Jaipur.

15. Shri Bhanwar Lal Kuldeep, House No. 22, Sunder Vatika, Behind Choudhary Petrol Pump, Tonk Road, Sanganer Thana, Sanganer, Jaipur.

16. Shri Hazari Lal Gupta, House No. 21 Roop Nagar-I, near Sawai Madhopur Railway Line, Tonk Phatak, Jaipur.

17. Shri Mahendra Kumar Jain, 9/231, Malviya Nagar, Jaipur.

18, Shri Rajendra Kumar Nagar, Baba Harish Chandra Marg, Ganesh Chowk, Chandpole Bazar, Jaipur.

19. Shri Hukum Chand Dabodia, Plot No. S-3, Ashok Chowk, Adarsh Nagar, Jaipur.

20. Smt. Kamlesh Sharma, Sector No. 13/468, Kaveri Path, Mansarowar, Jaipur.

21. Shri Mohan Lal Regar, Plot No.5, Behind Choudhary Petrol Pumpl, Near Sanganer Airport Circle, Tonk Road, Jaipur.

22. Shri Laxmi Narain Meena Village Barera, Post Jamdoli, Via Jhilai, Teh. Newai, Distt. Jaipur.

23. Shri Ved Prakash Singhal, C/o Director Census Operation, Rambagh Annexe, Jaipur.

24. Shri Mani Kant Sharma, House No. 2700, Jat Ka Kua ka

Rasta, Chandpole Bazar, Jaipur.

25. Shri Suraj Mal Tak, Behind New Sabji Mandi, Tonk Road, Jaipur.

26. Shri Bhura Ram Tarang, 9/540, Malviya Nagar, Jaipur.

27. Shri Bachittar Singh Purba, 199-A/1, Rajapark, Jaipur.

28. Shri Kailash Chand Gupta, House No. 15, Hathi Babu Ka Bagh, Kanti Nagar, Jaipur.

29. Shri Vijaya Mohan Mathur, B-52, Yash Path, Tilak Nagar, Jaipur.

30. Shri Nemi Chand Kumawat, Suironhiyon Ki Talai, Bhani Kumawatan, Sanganer, Jaipur.

31. Shri Narendra Kumar Gupta, 21, Bank Colony, Tonk Phatak, Jaipur.

32. Shri Suresh Chand Sharma, Village and Post Vatika, Teh. Sanganer, Distt. Jaipur.

33. Shri Vinod Kumar Gupta, S-4, Shastri Nagar, Jaipur.

34. Shri Krishan Kumar Sharma, 68, Love Kush Nagar, Jaipur.

35. Shri Madhav Lal Trivedi, 1/568, Malviya Nagar, Jaipur.

S.No.3 to 35 except 3,4 and 22 who are S.A. are at present posted as Computer in the Directorate, Census Operation, Rambagh Annexe, Jaipur.

.. Respondents

OA No.202/94

Vijay Kumar Juneja S/o Shri Vasudev Juneja, at present employed on the post of Computer in the office of the Director, Census Operations, Rajasthan, Jaipur.

.. Applicant

Versus

1. The Union of India through Home Secretary, Government of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General of India, 2-A, Man Singh Road, Kotah House Annexe, New Delhi.
3. The Director of Census Operations, Rajasthan, Jaipur.
4. Shri Kunj Behari Verma
5. Shri Gokul Chand Verma
6. Shri Mahavir Kumar Jain
7. Shri Kalesh Kumar Mittal
8. Shri Arun Kumar Jain

Respondents Nos. 4 to 8 are holding the posts of Computer in the office of Director of Census Operations, Rajasthan, Jaipur.

.. Respondents

Mr. P.V.Calla, Counsel for the applicants.

Mr. M.Rafiq, counsel for official respondents

Mr. S.L.Thadani, counsel for respondents Nos. 3 to 17 and 21 to 35.

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

PER HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

In all these cases, there is similarity of facts and the core questions of law involved are identital, as such, these cases are being decided by this common order. The learned counsel for the parties have also agreed to this.

2. After sifting through the mass of the pleadings in these cases, we are able to glean some indisputed facts, which have general relevance to the controversy at hand. These OAs involve two sets of officials of the Census Department. One of these is composed of those who are applicants in these cases. These persons were appointed initially as Assistant Compilers in the Census Department on temporary/ad-hoc basis between 20.4.1977 and 26.4.1980. In course of time, they were promoted to the next higher post of Computers between 1980 and 1982 on temporary ad-hoc basis and regularised in the said post between November, 1982 and October, 1984. Inter-se seniority lists in respect of applicants as Computers were notified through office orders dated 14.10.1985 and after carrying out necessary modifications on receipt of representations called for in respect of any objections against the said seniority list, a final seniority list was also notified on 31.3.1989. Applicants in respect of OAs Nos. 93/93 and 493/93 were also promoted on temporary basis on the recommendations of a DPC, to the next higher post of Statistical Assistants vide order dated 22.1.1991. The applicant in OA No.202/94 was promoted to the said post vide order dated 22.1.1991, was proposed to be reverted vide order 31.12.1992, whereupon he filed an OA No. 38/1993, which was dismissed by this Bench of the Tribunal vide order dated 15.12.1992. Thereafter the impugned letter dated 11/12.3.1991 (Ann.A1 in OA No.93/93 and 202/94 and Ann.A12 in Oa No. 493/93) was issued by the respondent Nos. 2 by which the the other group of Computers (private respondents in these OAs) initially recruited on ad-hoc basis during, 1980-81, were conferred regular status from the prospective date but were also allowed to count their ad-hoc services in the respective grade of Statistical Assistants and Computers for the purpose of the seniority as well as eligibility for

promotion to higher grades. It is against this circular that the applicants are essentially aggrieved and have challenged it as also the modified seniority lists of Computers published as a follow up of this circular. Such modified seniority lists appear to have been issued on different dates like one on 22.9.1992 (Ann.A2 in OA No.93/93), two lists dated 15/18.1.1993 (Ann.A3 in OA No.93/93), 12.4.1993 (Ann.A2 in OA No. 202/94 etc., in all of which the applicants were placed below the respondents. The applicants made representations but of no avail and hence have come before us with these three OAs.

3. The other group of officials, as briefly mentioned in the preceeding paragraph, and respondents in these three OAs, were recruited directly from the open market through the Employment Exchange during 1980-81, albeit on ad-hoc basis, on the strength of the letter of the Registrar General of India (for short, RGI) dated 4.6.1980 (Ann.R4 at page No.87 of the paper book in OA No. 93/93). This is the other group of Computers, which has been given the benefit of regularisation in the post of Computers and also counting of their ad-hoc service as Statistical Assistant and Computers for the purpose of seniority as well as eligibility for promotion to the higher grades by the impugned letter dated 11/12.3.1991.

4. On the basis of arguments advanced by the learned counsel for the parties and detailed pleadings of the parties, including those of some of the private respondents, who have chosen to file replies to the OAs, we are of the considered view that the controversy in these OAs can be focussed on the validity or otherwise of the impugned letter dated 11/12.3.1991 issued by the Govt. of India, Ministry of Home

Affairs, Office of the Registrar General of India, No. 18/18/90-Ad.IV dated 11/12.3.1991. Once the validity or otherwise of this circular is decided, a decision on the impugned modified seniority lists, as detailed earlier, will follow and the controversy will be set at rest.

5. Before we proceed to examine the validity of the letter dated 11/12.3.1991, it will be useful to briefly trace the history of the initial appointments of the applicants and the respondents to the post of Computers. It has been alleged by the applicants that as per the relevant recruitment rules (for short RRs), as amended in 1979, the mode of appointment was 75% by promotion and 25% by transfer failing which by promotion with no provision at all for direct recruitment and, therefore, appointment of the respondents was de-hors the rules and consequently their ad-hoc services could not have been regularised on the strength of the impugned letter dated 11/12.3.1991 and the respondents could not have been allowed counting of their ad-hoc service as Statistical Assistants and Computers for the purpose of seniority as well as eligibility for promotion to the higher grades. The respondents, on the other hand, have brought out the emergent situation in view of completing the time bound census operations in the overall national interests. In their reply the official respondents have controverted the three points the applicants had specifically raised in their representations (Ann.A10 at page 48 of paper book in OA No. 93/93 is one of them and page 6 of also refers) the said OA/. As regards the first point, that there was no provision for direct recruitment in the RRs, it has been stated that with a view to complete the time bound work of census, 37 posts of Computers were created for Rajasthan and after exhausting the two channels prescribed in RRs, the RGI

vide letter dated 4.6.1980 (Ann.R1 at page 59 of the paper book in OA No. 93/93) permitted respondent No.3 to fill up the vacant posts on temporary/ad-hoc basis through the Employment Exchange in case the said vacancies could not be filled up on regular basis in accordance with the provisions of the RRs. It has also been contended that the RRs contained power to relax any provision of the said RRs and, as such, the said permission to make appointments by direct recruitment had been given in exercise of the said powers. It may be mentioned that this contention of the official respondents has not been controverted by the applicants by filing any rejoinder. As regards point No. (ii), it has been stated that consequent to the issue of letter dated 11/12.3.1991, the seniority of Computers had to be re-cast, by including therein, regularised Computers at their proper place. With regard to point (iii), the official respondents have stated that the matter regarding regularisation of the services of ad-hoc appointees (private respondents) had been under active consideration of Government for quite some time, the process having started on 8.3.1983, and after consultations with the Department of Personnel and Training, it was decided on humane considerations to regularise the services of such ad-hoc Computers who fulfilled the conditions like age, qualifications etc. and the process culminated in issuance of letter dated 11/12.3.1991. It has also been stated that such a step was on the basis of various judgments of the Apex Court right from Narendra Chadda's case. It has also been contended by the respondents that both the Assistant Compilers and Computers are supposed to be recruited through the Staff Selection Commission but whereas the exemption was obtained in respect of directly recruited ad-hoc Computers (the respondents) vide PGI's letter dated 23.10.1979 (Ann.R-2 at page 82 of the paper book in OA No.93/93) and no such

relaxation was obtained in respect of applicants and unless they are selected through the Staff Selection Commission or exempted from it, the regularisation of applicants in the post of Assistant Compilers itself is, ab-initio, illegal and their challenge against the regularisation of the respondents, who had been appointed after satisfying the prescribed qualifications, and obtaining of relaxation both in the RRs and selection through Staff Selection Commission, does not have any ground to stand.

6. The learned counsel for the applicants has cited AIR 1974 SC 1755, The General Manager, South Central Railway, Secundrabad and Anr. v. A.V.R.Siddhanti and ors. We find that the case cited is distinguishable to the facts and circumstances of the controversy at hand and even though the applicants have challenged the policy decision about determination of seniority, a good number of persons who may be adversely effected in case the decision goes in favour of the applicants have already been impleaded as private respondents. The learned counsel for the official respondents has also referred to the judgments rendered by Hon'ble the Supreme Court reported in AIR 2000 SC 85, Ajit Kumar Rath v. State of Orissa and ors, in support of his contentions that recruitment on ad-hoc basis is permissible. He has also cited AIR 1990 SC 1607, Direct Recruits Class-II Engineering Association v. State of Maharastra. We find that the facts in the case in hand are quite specific to the controversy at hand and these judgments are, therefore, distinguishable. The learned counsel for the respondents has also drawn our attention to the judgments rendered by the Apex Court in Civil Appeals No. 9572-75 of 1995 on 19.10.1995 and in Civil Appeals Nos. 3946-4901 of 1998 on 13.8.1998 but on a careful study of

these two judgments, we find that Hon'ble the Supreme Court does not seem to have pronounced its specific verdict on the question of validity or otherwise of the RGI's letter dated 11/12.3.1991 yet at the same time upholding the action of the authorities based on this letter. Even otherwise after carefully considering the rival contentions as recorded hereinbefore, we find no illegality in the impugned letter dated 11/12.3.1991. Keeping in mind the emergent need for finishing the gruelling census operations, 37 posts of Computers were created for the State of Rajasthan. Direct Recruitment, albeit on temporary/ad-hoc basis at that juncture, was permitted by RGI only on exhausting the laid down channel of promotion (75%) and transfer failing which by promotion (25%). We have no reasons to disbelieve the contention of the official respondents that the relevant RRs themselves provided power to relax any provision of the said rule and permission for direct recruitment and such relaxation was given in exercise of the said power, especially when such a contention was not controverted by the applicants by filing a rejoinder. We also note that exemption from selection through Staff Selection Commission was also obtained for such direct recruitment in view of special circumstances vide RGI's letter dated 23.10.1979 (Ann.R2 at page 82 of paper book in OA No. 93/93) read with RGI's letter of 4.6.1980 (Ann.R1 at page 59 of the paper book in OA No. 93/93) which, while permitting direct recruitment, concluded by adding as under:

"..... For making ad-hoc direct recruitment, the following essential educational qualification, which has been prescribed for making regular direct recruitment by the Staff Selection Commission to similar posts under the Central Government, may be adopted by you :-

'Degree with Economics or Statistics or Mathematics as a subject from any recognised University'".

7. In view of the position as transpires above, we feel that the impugned letter dated 11/12.3.1991 regularising the ad-hoc services rendered by respondent Computers and also allowing these ad-hoc appointees in the grade of Statistical Assistants and Computers to count their ad-hoc services for the purpose of seniority as well as eligibility for promotion to the higher grades cannot be faulted in the given special circumstances. These (the respondents) were fully qualified persons, recruited after relaxation of provisions in RRs enabling direct recruitment with the objective of carrying on with the gruelling time bound census operations of national importance, after proper exemption from selection through Staff Selection Commission, had worked continuously for a decade and regularised after screening on the basis of assessment of CRs. They could not be penalised, for no fault of theirs, even if the official respondents had left any lacuna in the process of their regularisation, which, in any case, we are unable to notice in the circumstances of this case. Since the respondents have stated in their reply that permission was accorded for direct recruitment after relaxing the conditions in the relevant RRs under powers contained in item No. 7 in the RRs themselves and we have no reasons to disbelieve them, we cannot pursuade ourselves to aceept applicants' contention that the private respondents' recruitment was de-hors the rules per se. In the circumstances, we hold that the impugned letter dated 11/12.3.1991 is proper and valid and that there is no justification to set aside and quash it. We get support for

this finding in the order dated 15.12.1993 delivered by this Bench of the Tribunal, in OA Nos. 38/93 and 58/93, which had adjudicated on this issue and held that there was no illegality in the letter dated 11/12.3.1991. It has not been stated before us that this order dated 15.12.1993 has not attained finality. In view of the fact that we have come to the conclusion that the first and the main prayer regarding quashing the letter dated 11/12.3.1991 has to be rejected, the subsequent prayers for quashing the impugned seniority lists issued as a follow up of the said impugned letter have also to be necessarily rejected. The OAs, therefore, do not succeed.

8. In conclusion, in the background of discussions recorded upto paragraph No.8 above, we cannot pursuade ourselves to accept the prayers of the applicants and the OAs have to be rejected. We accordingly, pass the following order:

The Original Applications are dismissed. In the circumstances, there will be no orders as to costs.

(N.P.NAWANI)
Adm. Member

(B.S.RAIKOTE)
Vice Chairman

Certified That
Accurate Copy of The Documen
As In The Case File No. OA 93/93
And That All The Matter
Therein Have Been Legibly and
fully Copied with no Modifica
Copying Section Officer (Judicial)
CAT. Jaipur Bench