

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR

Date of order : 24/1.1994.

1. O.A.No.13/1994

2. O.A.No. 14/1994

Tara Chand

Sunil Kumar

3. O.A.No.26/1994

4. O.A.No.17/1994

Smt.Asha Saxena

Rajendra Prasad

.....Applicants.

Vs.

Union of India and Others

.....Respondents.

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PRESENT :

Mr.P.V.Calla)Counsel for Applicants.
Mr.Virendra Lohia)

Mr.U.D.SharmaCounsel for Respondents.

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CORAM :

The Hon'ble Mr.Justice D.L.Mehta, Vice Chairman
The Hon'ble Mr.B.N.Dhoundiyal, Administrative Member

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HON'BLE MR.B.N.DHOUNDIYAL, ADMINISTRATIVE MEMBER

As the issues raised in the above O.A.s
are similar these are being disposed of by a common
judgment.

2. All the applicants have challenged the impugned order dated 30th December, 1993 issued by the Dy. Director, Census Operation, reverting them from the posts of Computer to that of Assistant Compiler. They were recruited as Assistant Compilers/ L.D.Cs during 1980 and were later confirmed on the posts of Assistant Compilers by order dated 26.5.1989. On the basis of recommendations of a Departmental Promotion Committee (D.P.C.) they were promoted to the posts of Computer vide order dated 10.10.1990. They completed their probation period satisfactorily and vide order dated 12.4.1993 a declaration to this effect was made by the respondents. However, vide the impugned order dated 30.12.1993 they have been reverted from the posts of Computer to the posts of Assistant Compilers. They have prayed for quashing the impugned order dated 30.12.1993 and for directions to the respondents to treat them as Computers.

3. Heard the learned counsel for the parties and perused the record. The parties agreed that the point for adjudication were (a) whether the applicants could be reverted after having been confirmed in the post of Computer (b) whether the respondents have a right to reduce the number of permanent posts in the department and (c) whether the applicants would be entitled to the benefits of CCS (Redeployment of Surplus staff) Rules, 1990 ? As regards the first point, the learned counsel for the respondents argued that there is no specific provision regarding the maximum period

of probation. The Office of the Registrar General of India and Ex-officio Census Commissioner for India and the Offices of the Directors of Census Operations, in States and Union Territories (Computer) Recruitment Rules, 1984* give discretion to the respondents either to curtail or extend the period of probation. Citing judgments of the Supreme Court*, he argued that simply completion of the probation period will not have the effect of conferring permanent status on the applicants. The posts against which the applicants had been promoted remained temporary and the applicants should also be treated as temporary.

4. The learned counsel for the applicants has drawn our attention to Office Memorandum dated 28.3.1988 issued by the Ministry of Personnel. In para 4 it is mentioned that in pursuance of the decision to delink confirmation from the availability of a permanent vacant post, review of all the existing rules and instructions has been made and a revised procedure to be followed in these matters has been evolved. Para 4(c)(iii) of the said Office Memorandum reads as under :

"Where probation has been prescribed the appointing authority will be on completion of the prescribed period of probation assess the work and conduct of the officer himself and in the case the conclusion is that the officer is fit to be held the higher grade he will pass an order declaring that the person concerned has successfully completed the probation. If the appointing authority

*Judgments cited by the learned counsel for respondents-
1. A.I.R. 1986 S.C.737 U.O. I. & Ors. Vs. Arun Kumar Roy.
2. 1992 (6)S.L.R. 715 Municipal Corp. Raigarh V. A.K. Mishra

considers that the work of the officer has not been satisfactory or needs to be watched for some more time, he may revert him to the post or grade from which he was promoted, or extend the period of probation as the case may be".

As already mentioned on 12.4.1993, a letter was issued by the Dy. Director, Census Operations, Jaipur that the applicants had completed the probation period satisfactorily. The learned counsel for the respondents referred to para 6.2 of that Circular which provides that persons appointed against the posts in purely temporary organisations are outside the purview of the revised procedure outlined in this Office Memorandum. Though Census Operations are held only at the interval of ten years, Core Organisation is maintained for dealing with the follow-up action as well as advance preparations or publication of reports based on data collected during such operations. This fact is acknowledged by the respondents themselves as the applicants have been reverted to the posts of Assistant Compilers and not retrenched. We, therefore, hold that the applicants are entitled to the benefit conferred by the provisions of para 4 (C) (ii) of the Memorandum dated 28.3.1982. In fact the Office Order dated 12.4.1993 refers to these provisions.

5. As regards the right of the respondents to increase or reduce the number of posts, we find that

vide Notification dated 7.12.1984 the rules for the post of Computer in the office of Registrar General, India were published and it was indicated that there would be 1450 posts of Computers all over India out of which 76 were allocated to the office of Director of Census Operations, Rajasthan. We have also been shown an order dated 13.8.1993 abolishing certain Group 'C' posts other than Computers in the Directorate of Census Operations. No such order for abolition of posts of Compilers has been produced before us, though in the counter filed by the respondents, it is indicated that 21 temporary posts of Computers were created for the purpose of 1991 Census which are no longer available after 1.1.1984. According to respondents the sanctioned strength of Computers is 38 permanent posts, 14 posts pertaining to 1981 Census which are being continued on short term basis and 21 posts created for 1991 Census. After abolition of 21 posts only 52 posts are available. After adjusting 25 posts which were vacant as on 31.12.1993, only 8 junior most incumbents were reverted by order dated 30.12.1993. We are not convinced by the explanation given by the respondents regarding 76 posts mentioned in the Notification dated 7.12.1984 in the absence of any order abolishing some of these posts. However, the right of the respondents to regulate the number of posts in accordance with the requirements cannot be denied. The/put a review of

their requirements of various categories and determine the number of posts of Computers ~~available~~ ^{required} ~~vacant~~ permanently or on long term basis through formal orders. While doing so, they should take into consideration the claims of those Computers who had duly selected during the D.P.C. and have satisfactorily completed the probationary period. In case it becomes necessary to retrench some of the incumbents who have already completed the probationary period satisfactorily, they should follow the instructions ~~as~~ contained in the CCS (Redeployment of Surplus Staff) Rules, 1990 and CCS (Readjustment of Redeployed Surplus Employees) Order, 1991.

6. In O.A.No.17/1994 the applicant had challenged the seniority list also. The learned counsel for the applicant agreed that he should raise this issue in a separate O.A.

7. In the facts and circumstances of the case these O.A.s are disposed of with following directions :

a) The benefit of the provisions of para 4 (C) (ii) of the Office Memorandum dated 28.3.1988 shall be extended to the applicants and they shall be treated as having been confirmed as Computers.

b) The respondents shall carry out a review of the number of permanent posts of Computers

required by them taking into account the claims of those who have already completed their probation period satisfactorily and had been duly selected through the Departmental Promotion Committee. After such a review formal orders notifying the strength of various cadres shall be issued. In case retrenchment of some of the confirmed employees becomes necessary they will be given an option either to accept reversion to the lower post or to get deployed to the surplus cell. Till such time such a review is carried out and necessary orders are passed they shall not be reverted from their present post.

8. This disposes of the O.As with no order as to costs.

(B.N.Dhondiyal)
Admiv.Member

(D.L.Mehta)
Vice-Chairman

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