

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.No. 284 of 1997, 285 of 1997 and 286 of 1997.

DATE OF DECISION..... 31-8-1999.

Shri Abani Borthakur & Others. (PETITIONER(S))

S/Shri B.K.Sharma & S.Sarma. ADVOCATE FOR THE PETITIONER(S)

-VERSUS-

Union of India & Ors. RESPONDENT(S)

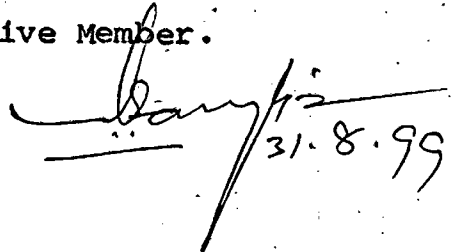
Shri A.Deb Roy, Sr.C.G.S.C. ADVOCATE FOR THE RESPONDENTS.

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE CHAIRMAN.

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member.


31.8.99

X

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Date of Order : This the 31st day of August, 1999.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Original Application No. 284 of 1997.

Shri Abani Borthakur & 2 others. . . . Applicants.

- Versus -

Union of India & Ors. . . . Respondents.

Original Application No. 285 of 1997.

Shri Balen Kalita & another . . . Applicants.

- Versus -

Union of India & Ors. . . . Respondents.

Original Application No. 286 of 1997.

Shri Bipul Chandra Gogoi & another. . . . Applicants.

- Versus -

Union of India & Ors. . . . Respondents.

Advocates for all the applicants : S/Shri B.K.Sharma &
S.Sarma.

Advocate for all the respondents : Shri A.Deb Roy, Sr.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMN.MEMBER.

These three Original Applications are disposed of by this common order for convenience. The brief facts in each O.A. are as below:

O.A.284/97 : The three applicants were appointed as Assistant Compiler in the office of the Director of Census Operation, Assam, Guwahati in the scale of pay of Rs. 950-1500/- p.m. in December 1990. In their appointment letters it was indicated that the posts were purely temporary for 1991 census work and would be abolished on completion of the work and the incumbents will be retrenched and the appointments are ad hoc in nature and were likely to be

contd..

continue upto 31.12.1993 only. The appointment could also be terminated before 31.12.1993 by giving one month's notice by either side or one month's emoluments in lieu thereof. The applicants were however continued in service. Efforts were made to absorb them in service and in the year 1993 they were directed to appear in the special qualifying examination conducted by the Staff Selection Commission during that year. The applicants could not qualify in the examination. Then later on the applicants came to know that their services were being terminated with effect from 31.12.1997 which was purportedly in pursuance of letter No. 1/2/97-RG(P) dated 1.12.1997, Annexure-5 and letter No. 12011/17/97-AdIV dated 3.12.1997, Annexure-6.

O.A.No.285/97 : The applicants were initially appointed as Lower Division Clerk in 1991 in the office of the Director of Census Operation, Assam, Guwahati. According to the respondents the services of the applicants were terminated with effect from 31.12.1992 on completion of the particular 1991 census work. However, they were offered alternative employment in a Grade of Assistant Compiler on ad hoc basis with effect from June 1993 and they are continuing in the posts till date. In their appointment letters it was indicated that the posts were purely temporary for 1991 census work and would be abolished on completion of the work and the incumbents will be retrenched and the appointments are ad hoc in nature and were likely to continue upto 31.12.1993 only. The appointments could also be terminated before 31.12.1993 by giving one month's notice by either side or one month's emoluments in lieu thereof. In December 1993 they were directed to appear in a special qualifying examination conducted by Staff Selection Commission. However, the applicants could not qualify in the examination. Then later on the applicants

came to know that their services were being terminated with effect from 31.12.1997 which was purportedly in pursuance of letter No. 1/2/97RG(P) dated 1.12.1997, Annexure-6 and letter No. 12011/17/97-AdIV dated 3.12.1997, Annexure-7.

O.A.No. 286/97 : The applicants are Lower Division Clerk in the office of the Director of Census Operation, Assam, Guwahati. They were appointed in April 1991. In their appointment letters it was indicated that the posts were purely temporary and would be abolished on completion of the 1991 census work and they will be retrenched. In 1993 they were required to appear in a special qualifying examination conducted by the Staff Selection Commission. However, they could not qualify in the examination. Then later on the applicants came to know that their services were being terminated with effect from 31.12.1997 which was purportedly in pursuance of letter No. 1/2/97-RG(P) dated 1.12.1997, Annexure-4 and letter No. 12011/17/97-AdIV dated 3.12.1997, Annexure-5.

2. The contention of the applicants is that they were sponsored by the Employment Exchange and were appointed after being selected. They cannot be terminated in the manner sought to be done by the respondents. According to them they were not also required to appear in the qualifying test for regularisation of their services and their failure in that qualifying test in 1993 cannot be a ground for termination of their services.

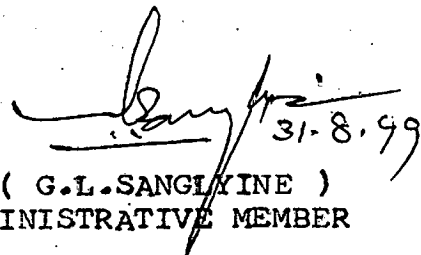
3. We have heard counsel of both sides. It appears that upto December 1997 the respondents were open to consider regularisation of the services of the applicants. However, in the letter dated 3.12.1997 they had decided that the proposal for regularisation of the services of the applicants who could not pass the special qualifying examination conducted by the Staff Selection Commission during 1993 cannot be agreed

to and further necessary action should follow. Without prejudice to the contention whether the applicants are to be subjected to the special qualifying examination, it is noticed that reasonable opportunity was not given to the applicants to prepare and appear in the said examination. Some of the applicants have stated that they were informed only on 21.12.1993 about the examination to be held on 26.12.1993. In such situation the failure of the applicants in the qualifying examination cannot be a ground to justify rejection of the proposal for regularisation of their services. We are of the view that it is fair and reasonable for the respondents to consider afresh the issue of regularisation of the services of the applicants. This should be completed within six months from the date of receipt of this order and till such final order is issued the services of the applicants shall not be disturbed.

The applications are disposed of. No order as to costs.



(D.N.BARUAH)
VICE CHAIRMAN



(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER