

2/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

C.P-37/2001 ordersheet pg-1 to 7 **INDEX**

closed date-03/05/2002

3

O.A.T.A No. 388/2000
R.A/C.P No. 37/2001
E.P/M.A No.

1. Orders Sheet. OA-388/2000 Pg. 1 to 2
2. Judgment/Order dtd. 20/3/2001 Pg. 1 to 2 disposed
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 388/2000 Pg. 1 to 59
5. E.P/M.P. Nil Pg. to
6. R.A/C.P. 37/2001 Pg. 1 to 10
7. W.S. Pg. 1 to 24
8. Rejoinder in C.P-37/01 Pg. 1 to 26
9. Reply in C.P-37/01 Pg. 1 to 14
Additional Rejoinder in C.P-37/01 pg- 1 to 6
10. Any other Papers. Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply in C.P-37/01 pg- 1 to 20

SECTION OFFICER (Judl.)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 388/2000

OF 199

Applicant(s) Md. Abul Hussain and others.

Respondent(s) Union of India & Ors.

Advocate for Applicant(s) Mr. A.K. Choudhury, Mr. M. Chanda,
Mrs. N.D. Goswami,
Mr. G.N. Chakraborty.

Advocate for Respondent(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>This application is in form but not in time Condonation Petition is filed not filed vide M P. No. C F. for Rs 50/- deposited vide IPO/B No 503798 ... Dated 30.10.2000</p> <p><i>Dy. Registrar</i></p> <p><i>note Registrar filed</i></p> <p><i>Brw</i></p> <p>Notice prepared and sent to D/O for issuing the Respondent No 1 to 4 by RP & By Hand. vide D/No 2773 & 2775 dtd 23/11/00</p> <p><i>25/11/00</i></p>	<p>15.11.00</p>	<p>Present: Hon'ble Mr. Justice D.N. Choudhury, Vice-Chairman.</p> <p>Heard Mr. A.K. Choudhury, learned counsel for the applicant and also heard learned counsel for the respondents.</p> <p>Application is admitted. Call for records. Issue notice on the respondents. Returnable by 4 weeks. List on 18.12.00 for orders.</p> <p>Pendency of this application shall not stand on the way of the respondents to consider the case of the applicants.</p> <p><i>Vice-Chairman</i></p>

Notes of the Registry

Date

Order of the Tribunal

- ① Notice duly served
on R.No-374 (by hand).
R.No.182 are awaited.
- ② No Reply has been
biled.

3A
15.12.2000

No written statement
has been biled.

3A
29.1.2001

mk

18.12.00

No representation. List on 1.1.2001
for further orders.

Member(A)

Vice-Chairman

trd

1.1.2001

Four weeks time is allowed to
the respondents to file written
statement on the prayer of Mr.B.C.
Pathak, learned Addl. Central Govt
Standing Counsel.

List on 30.1.01 for written
statement and further orders.

Vice-Chairman

30.1.01

List on 8.2.01 for orders. In the
meantime the respondents may file
written statement.

Member

Vice-Chairman

lm

8.2.01

Written statement has not been filed.
List on 5.3.01 for hearing. In the
menatime the respondents may file
written statement.

Member

Vice-Chairman

lm

5.3.

NO D.B. left & again on 20.3.2001.

Mr.
A.K. J.
5.3.

20.3.01

Heard learned counsel for the
parties. Hearing concluded. Judgement
delivered in the open court, kept in
separate sheets. The application is
disposed of..No costs.

Member

Vice-Chairman

trd

30.9.2001

3A
19.3.2001

Copy of the Judgment has
been sent to the Office. by
Rajy IS and to the appeal
as well as to the Addl. CGSC. by
the Registry. etc

CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./~~XXXX~~ No. 388 of 2000 of

DATE OF DECISION 20.3.2001

Nd, Abul Hussain & two Ors. PETITIONER(S)

Mr. A.K. Chowdhury. ADVOCATE FOR THE
PETITIONER(S)

VERSUS -

Union of India & Ors. RESPONDENT(S)

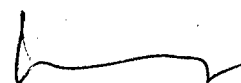
Mr. B.C. Pathak, Addl. C.G.S.C. ADVOCATE FOR THE
RESPONDENTS

THE HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN.

THE HON'BLE MR. K.K. SHARMA, MEMBER(A).

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 Vice-Chairman.



4

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 388 of 2000.

Date of order : This the 20th day of March, 2001.

Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman.

Hon'ble Mr. K.K.Sharma, Member (A).

1. Md. Abul Hussain
Son of Md. Azizur Rahman
Village Dampur
P.O. & P.S. Hajo
District-Kamrup,
Assam.
2. Sri Rabin Kalita
Son of late Krishna Kalita
resident of village Chachamukh.
3. Sri Nripen Das
Son of Sri Durga Kanta Das,
Resident of Amingaon,
District Kamrup,
Assam.

...Applicants

By Advocate Mr. A.K.Choudhury.

-versus-

1. Union of India,
Through the Secretary to the
Government of India,
Ministry of Home Affairs, North Block,
New Delhi-2.
2. Registrar General of Census Opration,
2/A Man Singh Road,
New Delhi.
3. Director of Census Operations,
Ministry of Home Affairs,
Assam, G.S.Road,
Guwahati-7.
4. Sri M.R.Das,
Director of Census Operations,
Ministry of Home Affairs,
Assam, G.S.Road, Guwahati-7.

...Respondents

By Advocate Mr. B.C.Patha, Addl. C.G.S.C.

O R D E R (ORAL)

CHOWDHURY J.(V.C.).

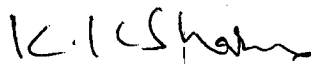
The applicants are three in number who are similarly situated retrenched employee of the Census department seeking for a similar direction granted by this Bench in


Contd...

in O.A. No. 415 of 1999 (O.I.Singh Vs. Union of India and Ors.) dated 20.1.2000. In the aforesaid decision the Tribunal in the light of the decision rendered by the Supreme Court in the case of Govt. of Tamilnadu and another Vs. G. Md. Ameenudeen reported in 7 SCC 499, ordered for consideration for absorption of the aforementioned applicant in vacancy that may occur in the 2000-2001 in suitable post commensurating to his qualification in terms of the judgement of the Apex Court.

2 Upon hearing Mr. A.K.Choudhury, learned counsel for the applicants and Mr. B.C. Pathak, learned Addl. C.G.S.C., we dispose of this application with a direction to the respondents to absorb the applicants in vacancies that would occur for Census Operations 2000-2001 in suitable post commensurating with their qualifications. The respondents are directed to make necessary appointments within a reasonable time on arising of such vacancies.

3. The application is accordingly disposed of. There shall, however, no order as to costs.


(K.K.SHARMA)
Member(A)


(D.N.CHOWDHURY)
Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Title of **Guwahati Bench** : O.A. No. 388/2000

Abul Hussain & two : Applicants

Ors.

-versus-

Union of India & Ors. : Respondents.

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1-20
2	-	Verification	21
3	1(Series)	Appointment Letters	22-24
4	2(Series)	Certificates	25-30 ³
5	3	Order dated 3.6.93	31
6	4	Gradation list	32-33
7	5	Order dt. 12.12.79	34
8	6	Programme of mapping dt. 28.12.93	35-36
9	7	Telegram dt. 17.12.93	37
10	8	Letter dated 11.11.93	38
11	9	Judgement & Order dated 5.6.98	39-45
12	10	Judgement & Order dt.16.2.2000	46-48
13	11	Judgement & Order dt.25.2.2000	49-50
14	12	Order dt.8.5.2000	51-53
15	13	Impugned order dt.23/24.2.2000	54-59

Date :

Filed by
N.D. Goswami
Advocate

Abul Hussain

8

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative
Tribunals Act, 1985).

.A. No. 388/2000

BETWEEN

1. Md. Abul Hussain
Son of Md. Azizur Rahman
Village Dampur
P.O. & P.S. Hajo
District-Kamrup
Assam.
2. Shri Rabin Kalita
Son of late Krishna Kalita
resident of village Chachamu~~kh~~
3. Sri Nripen Das
Son of Sri Durga Kanta Das
resident of Amingaon
District-Kamrup
Assam.

....Applicants

-AND-

1. Union of India
Through the Secretary to the
Government of India,
Ministry of Home Affairs, *North Block*,
New Delhi 2.

Contd.....

Md. Abul Hussain

2. Registrar General of Census Operations,
2/A Man Singh Road,
New Delhi.//
3. Director of Census Operations,
Ministry of Home Affairs
Assam, G.S.Road,
Guwahati.7.
4. Shri M.R.Das,
Director of Census Operations,
Ministry of Home Affairs
Assam, G.S.Road, Guwahati.7.

.... Respondents

DETAILS OF APPLICATION

1. Particulars of orders against which this application is made.

This application is made praying for a direction to the respondents for appointment of the applicants in the existing available vacancies of Draftsmen on regular basis *and temporarily* ~~alternatively~~ against the vacancies created in connection with 2001 Census, now sought to be filled up by deputation by the impugned circular issued by the Director of Census Operation vide letter No. DCO(E)50/99/2712 dated 23/24.2.2000 whereby Director, Census Operation, Assam, Guwahati proposes to fill up the post of Draftsman created in connection with 2001 Census on deputation basis in order to avoid implementation of the judgement and order dated 5.6.98 passed in O.A. No. 290/93 (Md. A. Hussain Vs. Union of India & Ors.)

Contd...

Md. Abul Hussain

and praying for a direction to the respondents for appointment of the applicants in terms of the law laid down by the Hon'ble Apex Court in the case of Government of Tamilnadu and Another Vs. G. Md. M. Aminuddin reported in 1999(7) SCC 499 and also praying in terms of the law laid down by this Hon'ble Tribunal in terms of the judgement and order passed in O.A. No. 161/99 dated 16.2.2000 and O.A. No. 76/2000 dated 25.2.2000 and also praying for a direction to the respondents to absorb the applicants in the existing vacancies occurred in connection with 2001 census as well as against the existing regular vacancies which are available in the establishment of the Director Census Operation, Assam.

2. Jurisdiction

The applicants declare that this application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation

The applicants further declare that this application is filed within the prescribed period of limitation as per Administrative Tribunals Act, 1985.

4. Facts of the case

4.1 That the applicants are citizens of India and as such they are entitled to all the rights and privileges as guaranteed under the Constitution.

4.2 That your applicants are retrenched employees of Census Operation, Assam. Their grievance and the reliefs sought for are common in this application and as such

Md. Abul Hussain

they ~~before~~ pray before the Hon'ble Tribunal for permission to move this application jointly in a single application under Rule 4 (5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

4.3 That your applicants were sponsored by the Employment Exchange for being appointed as Draftsmen in the office of the Director of Census Operation, Assam, Guwahati. Pursuant to such sponsorship, the applicants alongwith many others were invited for interview. The said interview consisted of both practical and viva-voce. Eventually, the petitioners were selected for being appointed as Draftsmen. Be it stated here that they are all diploma holders in Draftsmanship. After such selection of the applicants they were issued with appointment orders. The applicant No. 1³ was appointed vide Office Order dated 13/14.12.1990 issued under Memo No. DCO(E)21/78/Vol.II/13106-22. The applicant Nos. 1 and 2 were appointed by different Office orders dated 4.6.91 issued under Memo No. DCO(E).I/89/Pt.I/11156-61 and DCO(E)1/89/Pt.I/11163-69 respectively. Pursuant to such appointment orders which were preceded by necessary police verification and medical check up, the applicants joined their posts immediately on receipt of the office orders and since then they have been continuing in their respective posts without any interruption. Ever since their such appointments they have been discharging their duties to the satisfaction of all concerned without any adverse remarks.

The copies of the aforesaid appointment orders referred to above are annexed as Annexure-1 (Series

Md. Abul Hussain

4.4 That the applicant No.3 passed HSSLC (Science) Examination in 1987 from Arya Vidyapity College, Guwahati. He also passed the diploma in Draftsmanship in the year 1989 from I.T.I., Guwahati. The applicant No.1 passed HSSLC (Science) Examination in the year 1986 from Arya Vidyapity College, Guwahati and also obtained diploma in draftsmanship in 1989 from I.T.I., Guwahati. The applicant No.2 also passed HSSLC (Science) Examination in 1987 from Pragjyotish College, Guwahati and obtained his diploma in draftsmanship from I.T.I., Guwahati in 1988.

Copies of HSSLC (Science) Examination pass certificates and diplomas in draftsmanship ceritificates of the applicants are annexed as Annexure-2 (series).

4.5 That though in the appointment~~s~~ orders, it has been stated that the posts are purely temporary and created specially in connection with 1991 Census work, the applicants have all along been treated as regular employees and in the process they have also earned increments, bonus and all other service benefits. Their services books have also been opened. It will be seen from their appointment orders that no time limit has been given for their continuance in service unlike many other who have also been appointed in some other posts alongwith the applicants. In this connection mention may be made of office order issued under Memo No. DCO(E)/I/89/Pt.I dated 3.6.93 by which on Shri Jiban Malakar was appointed in Computer mention- ing specially in the order itself that the appointment

Md. Obul Hussain

is to continue upto 31.12.1993 only.

A copy of the said order dated 3.6.93 is annexed as Annexure-3.

4.6 That as has been stated above, the applicants have been holding their respective posts receiving all the service benefits like that of any other permanent Government employees. Their names have also appeared in the final seniority list as was circulated vide letter No. DCO(E)1/171/74/16361 dated 25.9.91.

A copy of the said Gradation list is annexed as Annexure-4.

4.7 That the applicants state that the census operation throughout the country are taken up at the interval of every 10 years, and as such, operation generally and normally continue since the new census operation is taken up. The incumbents who are appointed more particularly in the cadre of draftsman have never been retrenched on the ground of completion of census works. In this connection mention may be made of the appointment of one Miss Minu Kalita who was appointed during census operation of 1980 vide order issued under Memo No. DCO(E) 21/78/14004-11 dated 12.12.79. It will be pertinent to mention here that due to the Assam agitation, the census operation of 1980 could not be taken up. However, the said Miss Minu Kalita continued to hold the post and even today she has been continuing in the office of the Director of Census Operation.

Copy of the said order dated 12.12.79 is annexed as Annexure-5.

Md. Abdul Hussain

4.8 That the applicants have come to know that the service of some of the members of the staff are being dispensed with effect from 31.12.93. As has been stated above, in their appointment orders it was specifically mentioned that their such appointments are on ad hoc basis and will continue only upto 31.3.93. However, in the case of the applicants, there was no such mention. Furthermore, never before the draftsman who have been appointed during the census operation, have been terminated, and they ^{were} are still continuing in their services. Many of them have been promoted, ^{regularised}. However, it is being whispered in the office of the respondent No.3, the services of the petitioners ~~are~~ ^{were} also going to be dispensed with effect from 31.12.1993, without any prior notice. Being faced with such a situation, the applicants ^{had} ~~have~~ filed ^{The} ~~and~~ Original Application seeking appropriate relief from ~~this~~ the Hon'ble High Court, ie OA No. 270/1993.

4.9 That the applicants stated that the office of the respondent No.3 has drawn up a tentative programme of mapping at DCO, Assam for 1991 Census in the level of Draftsman/Senior Draftsman/Artist/Senior Artist etc. by its letter dated 28.12.1993. A bare perusal of the ^{said} ~~said~~ programme reveals that the various works relating to the said Census are to be completed meaning thereby that there is still requirement of draftsman. Such ^{was} a position is further ^{had} fortified from the fact that the respondents ~~now~~ ^{had} already issued a telegram to the respondent No.2 making a request thereby for ~~extension~~ of all the posts created against 1991 census beyond 31.12.93

Md. Abul Hussain

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was

In the said telegram, it has been clearly mentioned about the pendency of huge mapping works relating to District Census Handbook and other related projects and as to ~~who~~ any shortfall will seriously dislocate mapping works. From this document it will be seen that there is still requirement of the posts of draftsmen to be continued.

Copies of the said programme dated 28.12.93 and the telegram dated 17.12.93 ~~are~~ annexed as Annexures-6 & 7 respectively.

4.10 That the applicants state that apart from the aforesaid factual position, it is further evident from the fact that ~~recently~~ an interview was held by calling upon candidates sponsored by the Employment Exchange for the post of Draftsman. As has been stated above, the applicants were also sponsored by the Employment Exchange and after their due selection by a powerful selection committee, they were all appointed as Draftsman. Naturally after their such selection and appointment, their names have been scored out from the list maintained by the Employment Exchange and accordingly, they did not got any opportunity to appear before the ~~recently~~ concluded interview for the post of Draftsman. They were also not invited as departmental candidates to appear in the said interview.

A copy of the said interview letter dated 11.11.93 is annexed as Annexure-8.

4.11 That the applicants state that like before ^{have been} the 1991 census operation ~~will~~ continued till final census report and by the time, the report ^{was} ~~is~~ prepared and the

Md. Abul Hussain

works analogous to that were completed, the new census operation are taken up and eventually the employees who were appointed for a particular census work were allowed to continue. Furthermore, the requirement of draftsman is expected on the face of it in as much as some more incumbents are being recruited. In such a situation, if the services of the applicants are not regularised alongwith other employees of different cadres, the applicants will suffer irreparable loss and injury. In any case, they cannot be treated to be at par with the other incumbents of different cadres who were specifically told that their services would continue only upto a specific period.

4.12 That your applicants beg to state that when they came to know from a reliable source that their services are going to be terminated with effect from 31.12.1993 the applicants approached the Hon'ble Tribunal by way of filing the O.A. No.270/93 praying against the order of termination of their services issued by the respondents under letter No.DCO(E)97/80 Vol.I/9922-48 dated 21.12.1993. The said O.A. came up for consideration before the Hon'ble Tribunal on 31.12.1993 and the Hon'ble Tribunal after hearing the arguments of the counsel for the parties was pleased to pass an interim order directing the respondents not to terminate the

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Md. Abul Hussain

services of those applicants from service. However the applicants by virtue of the interim order passed on 31.12.1993 in O.A. No. 270/92 (Md. Abdul Hussain & Ors. Vs. Union of India & Ors) continued in service till disposal of the said O.A.

4.13 That the said Original Application was decided by the Hon'ble Tribunal on 5.6.1998 with the following direction :

" 4. The applicants were allowed to continue in service on the strength of interim order dated 31.12.1993. However, one of them had since left his service under the respondents. For the remaining applicants it was contended that they can be retained in service against other vacancies under the control of respondent No.3. In Union of India Vs. Dinesh Kumar Saxena, reported in (1995) 29 ATC 585 the Hon'ble Supreme Court had held among others as follows :

"Ends of justice will be met if the Directorate of Census Operations, U.P. is directed to consider those respondents, who have worked temporarily in connection with 1981 and/or 1991 census operations and who have been subsequently retrenched. for appointments 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."

Md. Abdul Hussain

Other directions such as relaxation of age were issued. We have no doubts that Respondent No.3 will take action in the lines indicated in the judgement above in the case of the applicants also if occasion for appointment arises in near future. There may also be scope to offer the applicants appointments on purely ad hoc basis against some purely ad hoc vacancies. The applicants may approach him individually in these regards if they desire.

The application is disposed with no order as to costs."

In terms of the above judgement and order dated 5.6.1998 service of the applicants have been discontinued with effect from 27.6.1999.

Copy of the judgement and order dated 5.6.98 referred to above is annexed as Annexure-9.

4.13 That the applicant being aggrieved by the aforesaid judgement and order dated 5.6.98 passed by the Hon'ble Tribunal passed in O.A. No. 270/93 approached the Hon'ble High Court by way of filing Writ Petition being numbered as Civil Rule No. 2924/98. The Hon'ble Gauhati High Court was pleased to issue rules upon the respondents on 17.6.98 while admitting the case and further observed that pendency of the petition shall not be a bar on the respondents to absorb the petitioners subject to availability of post.

It is relevant to mention here that the present applicants also filed a Misc. case being numbered as 747/99.

Md. Abul Hussain

in Civil Rule No. 2924/98 praying for a direction to the respondents to appoint the applicants against some vacancies occurred in the establishment of the respondents. The Hon'ble High Court disposed of the said Misc. Case on 2.7.99 with the observation that the pendency of the Writ Petition ~~xxxxxx~~ shall not be a bar for the respondents to appoint/absorb the petitioners subject to the availability of posts as already observed in the earlier order dated 17.6.98. It is relevant to mention here that the present applicants further ~~approached~~ the Hon'ble High Court through Misc. case No. 323/2000 in Civil Rule No. 2924/98 praying interalia for setting aside the operation of the impugned circular dated 23/24.2.2000, the decision for filling up some vacancies including the vacancies of draftsman by appointment on deputation basis in connection 2001 Census. However the Hon'ble Court was pleased to dismiss the said Misc. Petition on the ground that the case of the present applicants is niether covered by the direction issued by the Tribunal in the order impugned in the Writ Petition or by any judicial pronouncement. In this connection it is relevant to mention here that similarly situated retrenched employees of the office of the Director, Census Operation, Assam approached the Central Administrative Tribunal through O.A. No. 161/99 and O.A. No. 76/2000 praying interalia for a direction to the respondents to absorb the applicants in the existing available vacancies under the Director, Census Operation, Assam and the ~~xxxxxx~~. Hon'ble Tribunal was pleased to dispose of the said O.A.s on 16.2.2000 and 25.2.2000 following the judgement and order passed by the Hon'ble Apex Court in the case of Govt. of Tamilnadu and

Md. Abul Hussein

Another Vs. G.Md. M. Aminuddin reported in 1999(7) SCC 499 with the direction to the respondents to absorb those applicants in the vacancies that will occur in connection with census operation 2000 in the suitable post for which those applicants are entitled to be considered for appointment following the judgement and order of the Hon'ble Apex Court referred to above. It is also relevant to mention here that while deciding the O.A. 161/99 and 76/2000 the Hon'ble Tribunal also referred the decision of the Hon'ble Supreme Court in the case of Union of India Vs. Dinesh Kumar Saxena reported in 1995 (29) ATC 585 which was infact referred in the judgement and order passed on 5.6.98 in O.A. No. 280/93. After the aforesaid judgement and order dated 16.2.2000 and 25.2.2000 in O.A. Nos. 161/99 and 76/2000 the applicants approached the Director, Census Operation for appointment but the respondents although did not take any steps for appointment of those applicant in the existing vacancies. However, in order to avoid the implementation of the order of the Tribunal dated 16.2.2000 and 25.5.2000 the respondents issued the impugned circular bearing letter No. DCO(E)50/99/2172 dated 23/24.2.2000. The applicants of those O.As finding no other alternative again approached the Hon'ble Tribunal through O.A. No. 142/2000 challenging the impugned order dated 23/24.2.2000. However the Hon'ble Tribunal on 8.5.2000 although did not stay the operation of the impugned order dated 23/24.2.2000 but directed the respondents to adjust and ~~absorb~~ ~~absorb~~ absorb those applicants in the vacancies available as indicated in the order dated 23/24.2.2000 subject to the result of the

Md. Abul Hussain

O.A. After passing of the said interim order in O.A. No. 142/2000 the respondents have adjusted all those applicants of O.A. No. 161/99 and 76/2000 in the available existing vacancies which were proposed to be filled up by the impugned order dated 23/24.2.2000 by transfer on deputation basis. In this connection it is also relevant to mention here that some regular vacancies in the cadre of Assistant Compiler/L.D.C./Computer/Data Entry Operator are also available in the establishment of Census Operation, Assam in addition to the vacancies sanctioned for the purpose of 2001 census operation, therefore there is no difficulty on the part of the respondents to adjust or absorb the applicants either in the regular vacancies or in the available sanctioned vacancies for 2001 Census Operation. It is pertinent to mention here that three posts of Draftsman in the pay scale of Rs. 4500-125-7000 are lying vacant under the Respondent No.3. Two of them have been sanctioned in 2000 census and the other vacancy has been occurred very recently following the promotion of a draftsman to a higher post. The present applicants having requisite qualification for appointment of draftsman as such they are entitled to be appointed in the existing vacancies of draftsman sanctioned in connection with 2001 census. Be it stated that although circular has been issued to fill up the post of draftaman by transfer on deputation basis but so far the applicants came to know that not a single application has been received by the Director Census Operation, Assam regarding appointment of draftsman

Md. Abul Hussain

on deputation basis. It is categorically stated that three posts of Draftsman in the office of the Director; Census Operation, Assam for the purpose of 2001 census are still available and therefore the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicants either to the regular post of draftsman or any other suitable post or at least to the available post of draftsman sanctioned for the purpose of 2001 census.

Copy of the judgement and order dated 16.2.2000 and 25.2.2000, and 8.5.2000 ~~xxxx~~ referred to above and the impugned order dated 23/24.2.2000 are annexed as Annexures-10, 11, 12, and 13 respectively.

4.14 That the applicants by this time have crossed the upper age limit for any other Government job and also in view of their long services rendered i.e. about eight years under the respondents has acquired a valuable and legal rights for consideration of their appointment either in any of the suitable existing vacancies or at least against the sanctioned vacancies of draftsman for the purpose of 2001 census. As such the Hon'ble Tribunal be pleased to direct the respondents to appoint the applicants in any of the suitable posts with immediate effect.

4.15 That the applicants beg to state that in view of the Apex Court decision passed in the case of Government of Tamilnadu and Another Vs. G.Md. M Aminuddin also in view of the Hon'ble Tribunal's judgement and orders passed

Md. Abul Hussain

in O.A. No. 161/99, 76/2000 and also in terms of the interim order passed in O.A. No. 142/2000 dated 8.5.2000. the applicants are entitled to be appointed/adjusted either against the regular vacancies or any other suitable post or at least to the post of draftsman sanctioned in connection with 2001 census operation. It is relevant to mention here that ~~six~~ six post of computer as well as 14 posts of Data Entry Operator including the post of LDC and Assistant Compilers are available in the office of the Director Census Operation, Assam. Therefore the Hon'ble Tribunal be pleased to direct^{to} the respondents ~~to~~ appoint the applicants to any suitable post in the light of the judgements and orders referred to above.

4.16 That this application is made bonafide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

- 5.1 For that the applicants have acquired valuable and legal rights for absorption against the existing regular vacancies of draftsman in the office of the Director, Census Operation, Assam, in view of their long temporary/ad hoc services for about 8 years under the present respondents.
- 5.2 For that the existing regular vacancies in the cadre of draftsman, computer, Assistant Compiler/ L.D.C./Data Entry Operators are available in the establishment of the Director, Census Operation, Assam.
- 5.3 For that posts of draftsman, computer, assistant compiler, L.D.C., Data Entry Operator has been specifically sanctioned and the said posts are

Md. Abul Hussain

still available which would be evident from the impugned letter dated 23/24.2.2000.

- 5.4 For that the respondent No.3 issued the impugned circular for filling up the vacancies sanctioned for 2001 census in order to avoid implementation of the judgement and order dated 5.6.98.
- 5.5 For that sending requisition to Staff Selection Commission for filling up existing available vacancies is contrary to the direction of the Hon'ble Tribunal as well as the decision of the Apex Court mentioned in paragraph 4 of this application.
- 5.6 For that the Director, Census Operation, Assam, Guwahati issued the impugned circular dated 23/24.2.2000 inviting applications for filling up vacancies on deputation basis with a mala fide intention and on extraneous consideration to deprive of the legitimate claim of the applicants for appointment and the same is also violative of the order/direction passed by the Hon'ble Tribunal in O.A. No. 270/93.
- 5.7 For that the applicants have gathered experience and having the requisite qualification as required for the posts of draftsman lying vacant under the respondents.
- 5.8 For that the respondents more particularly respondent No.3, acted arbitrarily and illegally in not considering the claim for appointment of the applicants and the action of the respondents

Md. Abul Hussain

is in frustration of the spirit of the order of the Hon'ble Tribunal dated 5.6.98 in O.A. No. 270/93.

- 5.9 For that the applicants can easily be accommodated against the existing available vacant post of Draftsman and there is no reasonable impediment on the part of the respondents in doing so.
- 5.10 For that the action of the respondents in proposing to fill up the vacancies of 2001 Census by process of deputation is ~~is~~ total violation of the direction passed by the Hon'ble Tribunal in O.A. No. 270/93 dated 5.6.98.

6. Details of remedies Exhausted.

The applicants states that they have no other alternative and other efficacious remedy than to prefer this application before this Hon'ble Tribunal.

7. Matter not previously filed or pending with any other court/tribunal.

The applicants state that they had filed an O.A. which was registered in O.A. No. 270/93 and the same was disposed of on 5.6.98 with direction/ø to the respondents to consider their case in terms of the judgement and order passed by the Hon'ble Apex Court in the case of Dinesh Kr. Saxena Vs. Union of India & Ors. Thereafter ^{applicants} ~~their case was~~ ~~not considered in favour of them~~ and accordingly approached the Hon'ble Gauhati High Court throgu Civil Rule 2994/98 which is pending before the Hon'ble Gauhati High Court but the applicants decided to withdraw the same ~~from~~ the said Hon'ble High Court.

Md. Abul Hussain

8. Relief(s) sought for :

Under the facts and circumstances of the case, the applicants pray for the following reliefs :

8.1 That the impugned circular issued under letter No. CDO(E)99/2171 dated 23/24.2.2000 (Annexure- 13) be set aside and quashed.

8.2 That the respondents be directed to appoint the applicants in ^{any} the existing vacant post of Draftsman in the office of the Director, Census Operation, Assam Guwahati with immediate effect or alternatively to any other available posts available namely, Compiler, Proof Reader, Data Entry Operator, Lower Division Clerk in terms of the judgement and order dated 5.6.98 passed in O.A. No. 270/93. *and also in the light of the judgement and order passed in OA 161/99 and OA 76/2000*

8.3 Costs of the Application.

8.4 Any other relief or reliefs to which the applicants are entitled to under the facts and circumstances of the case as deemed fit and proper by the Hon'ble Tribunal.

9. Interim relief prayed for :

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned circular dated 23/24.2.2000 (Annexure- 13) till disposal of this application.

9.2 That the Respondents more particularly the respondent No.3 be directed to appoint the applicants as an interim measure in the available post of Draftsmen or any other suitable

Md. Abul Hussain

28

post namely, Computer/LDC/Assistant/Compiler/
Proof Reader/Data Entry Operator either against
the regular vacancy or at least in the sanction-
ed post of 2001 census.

10.

This application is filed through advocate.

11. Particulars of the I.P.O.

- | | | | |
|------|---------------|---|-------------------|
| i. | I.P.O. No. | : | 26 50 37 98. |
| ii. | Date of Issue | : | 30/10/2K. |
| iii. | Issued from | : | G.P.O., Guwahati. |
| iv. | Payable at | : | G.P.O., Guwahati. |

12. List of enclosure

As stated in the Index.

Verification

Md. Abul Hussain

V E R I F I C A T I O N

I, Sri Md. Abul Hussain son of Md. Azizur Rahman aged about 31 years, resident of village Dampur P.O. & P.S. Dampur & Hajo District-Kamrup, Assam, one of the applicants in the instant Original Application and have been duly authorised to verify the statements made in this application by the other applicants on behalf of them accordingly verify and declare that the statements made in paragraphs 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to my legal advice which I believe to be true and I have not suppressed any material fact.

And I sign this verification on this the 7th day of November 2000 at Guwahati.

Md. Abul Hussain
Signature

REGISTERED

No. DCO(E)1/89/Pt.I/11154
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATION, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-781007

Dated Guwahati the 4th June/91

OFFICE ORDER

Shri Rabin Kalita is hereby appointed temporarily on ad hoc basis as Draftsman in the office of the Director of Census Operations, Assam, Guwahati in the scale of pay of Rs. 1200-30-1560-EB/40-2040/- P.M. plus other allowances as admissible under the Central Govt. Rules as amended from time to time.

The appointment is purely temporary created specially in connection with 1991 Census works and would be abolished on completion of the work and the incumbent will be retrenched and Govt. would have no liability thereafter.

He should produce the medical certificate of his fitness from the Chief Medical & Health Officer in the proper form (enclosed) at the time of joining the post.

He should join in the post on or before 17/6/91 failing with the appointment order will be treated as cancelled.

Sd/-

(J.C.BHUYAN) 4.6.91
DEPUTY DIRECTOR OF CENSUS OPERATIONS
(SR), ASSAM, GUWAHATI.

Memo No. DCO(E)1/89/Pt.11156-61

Date 4.6.91

Copy to :

1. The Pay & Accounts Officer (Census), A.G.C.W. & M Building, New Delhi-2.
2. The Asstt. Director of Census Operations (D.D.O.),
3. The Office Superintendent.
4. The Jr. Accounts Officer.
5. Establishment Branch (for personal file).
6. File No. DCO(E) 21/78/Vol.I.
7. Shri Rabin Kalita, Vill. Chechamuch, P.O. Kulahati, P.S. Hajo, Dist. Kamrup (Assam) PIN 781104

Sd/-

(J.C.BHUYAN) 4.6.91
DEPUTY DIRECTOR OF CENSUS OPERATION (SR)
Assam, Guwahati

*Attested and
Adm.*

Annexure-1 (Series) Contd.

No.DCO (e) 1/89/Pt.I/11162

REGISTERED

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS: ASSAM
G.S.ROAD, ULUBARI, GUWAHATI: 781007

Dated Guwahati the 4th June/91

OFFICE ORDER

Shri Nripendra Das, is hereby appointed temporarily on ad hoc basis as Draftsman in the office of the Director of Census Operations, Assam, Guwahati in the scale of pay of Rs.1200-30-1560-EB-40-2040/- P.M. plus other allowances as admissible under the Central Govt. Rules as amended from time to time.

The appointment is purely temporary created specially in connection with 1991 Census works and would be abolished on completion of the work and the incumbent will be retrenched and Govt. would have no liability thereafter.

He should produce the medical certificate of his fitness from the Chief Medical & Health Officer in the proper form (enclosed) at the time of joining in the post.

He should join in the post on or before 17.6.91 failing which the appointment order will be treated as cancelled.

Sd/-

(J.C.BHUYAN) 4.6.91

DEPUTY DIRECTOR OF CENSUS OPERATIONS (SR)
ASSAM, GUWAHATI.

Memo No. DCO(E) 2/89/Pt.I/11163-69
Copy to

Date 4.6.91

1. The Pay & Accounts Officer (Census), A.G.C.M. & M Building, New Delhi-2.
2. The Asstt. Director of Census Operations (D.D.O.),
3. The Office Superintendent.
4. The Sr. Accounts Officer.
5. Establishment Branch (for personal file)
6. File No. DCO(E) 21/78/Pt.I.
7. Shri Nripendra Das, Vill. Amingaon (Madhyam) .P.O, Guwahati-31, P.S. Jalukbari, Dist.Kamrup (Assam).

Sd/- 4.6.91

(J.C.BHUYAN)

DEPUTY DIRECTOR OF CENSUS OPERATIONS (SR)
ASSAM, GUWAHATI 4.6.91

*Accepted
Sri
Ahr.*

REGISTERED

No. DCO(E) 21/78/Vol.II
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-781007

Dated Guwahati 13/12/90
14

OFFICE ORDER

Shri/Md. Abul Hussain son of Md. Azijur Rahman of village Dampur in the district of Kamrup (Assam) is hereby appointed temporarily as Draftsman in the office of the Director of Census Operations, Assam, Guwahati in the scale of pay Rs.1200-30-1560-EB-40-2040/- pm plus other allowances as admissible under the Central Govt. rules as amended from time to time.

The post is purely temporary created specially in connection with the 1991 Census work and would be abolished on completion of the work and the incumbent will be retrenched and Govt. would have no liability thereafter.

He should produce the Medical Certificate of his fitness from the civil Surgeon or Chief Medical Officer in form enclosed herewith at the time of his joining in this office.

He should join immediately.

Sd/- J.C.BHUYAN
DEPUTY DIRECTOR OF CENSUS OPERATIONS, (SR)
ASSAM GUWAHATI.

M.No. DCO(E) 21/78/Vol.II/13016-22 Dated 13/14.12.90
Copy to :

1. The Pay & Accounts Officer, (Census), New Delhi-2.
2. The Assistant Director of Census Operations (T) (DDO)
3. The Assistant Director of Census Operations (T)
4. Office Superintendent.
5. Accounts Branch
6. Estt. Branch (for personal file)
7. Shri/Md. Abul Hussain, C/o Osman Gani, Vill-Birubari, P.O. Gopinath Nagar, Guwahati-16 district Kamrup, Assam.

Sd/- Illegible
(J.C.BHUYAN)
DEPUTY DIRECTOR OF CENSUS OPERATIONS (SR)
ASSAM, GUWAHATI

Teesta
S. S. S.
Adm.

Annexure-2 (series)

/COPY/

OFFICE OF THE PRINCIPAL
ARYA VIDYAPEETH HIGHER SECONDARY & MULTIPURPOSE
SCHOOL, GUWAHATI-16.

No. 109

Date 15.7.87.

This is to certify that Sri Abul Hussain son of
Sri Azizur Rahman bearing Roll 2057 No. 1392 passed
the Higher Secondary School Leaving Certificate Examin-
ation, 1987 in Science stream as a private candidate
from this school and was placed in the 3rd Division.

His character and conduct have been good.

I wish him success in life.

Sd/- Illegible

Attested

Sd/- 27.7.87

Technical Asstt.
Agril Information Wing
Ulubari, Guwahati-7.

Arya Vidyapeeth Higher Secondary
& Multipurpose School, Guwahati-16.

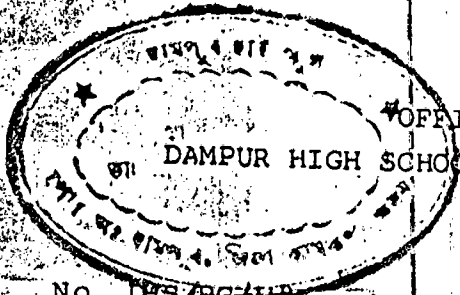
*Attested
Sd/-
Ali*

26

Durxm-2 sin

37

9989/84
27/11



No. DHS/PG/113

Dated, Dampur the 13th Aug 1984.

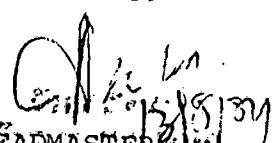
THIS is to certify that Md. Abul Hussain
Roll R 159 No. 103 passed the High School Leaving
Certificate Examination on-Compartmental, 1984. under the
Board of Secondary Education, Assam, Guwahati from this
School as a regular/Private Candidate and was placed in
the 1st/2nd/3rd Division.

His/Her Date of Birth according to the
Admission Register was 31-3-69

During the school days his/her conduct and
character have been found to be satisfactory.

I wish him/her success in life.

Dated, Dampur the
13th Aug 1984.


HEADMASTER
DAMPUR HIGH SCHOOL
P.O. & Vill. Dampur.

-00000-


Attest for
A. J. A. A.



GOVERNMENT OF ASSAM

PROVISIONAL NATIONAL TRADE CERTIFICATE

Shri/Shrimati/Kumari **Md. Abul Hussain**Son/Wife/Daughter of Shri **Md. Azizor Rahman**

having completed the Course of training at INDUSTRIAL TRAINING INSTITUTE

Guwahati and passed the prescribed trade test in the Trade of**Draughtsman(Civil)** held on **July '89** One Thousand Nine Hundredand **eighty nine** is awarded this trade certificate provisionally

The National Trade Certificate will be issued by the National Council for Vocational Training.

Period of Training: From **Aug '87** to **July '89**CHARACTER *good*

TRADE TEST MARKS:

	MAX. MARKS:	MARKS OBTAINED:
1) Practical (Including Sessional)	400	257
2) Trade Theory (")	120	55
3) Workshop Calculation & Science (")	60	26
4) Engineering Drawing (")	X	X
5) Social studies	50	20
TOTAL	630	367

~~He/She has also passed in the Additional Subject of Social Studies.~~Date of birth as recorded in School Certificate **31-3-69**

Signature of certificate holder

*Md. Abul Hussain*Address *vill & P.O. - Dampur,*
P.S. Hajo, Dist. Kamrup (Assam)

Seal

Date.....

Principal

INDUSTRIAL TRAINING INSTITUTE

Attested
Sd/-
Ad

28

Amour - 2 (Sirm)

- 33 -

Ar No. 16



ARYA VIDYAPEETH COLLEGE

GUWAHATI - 16

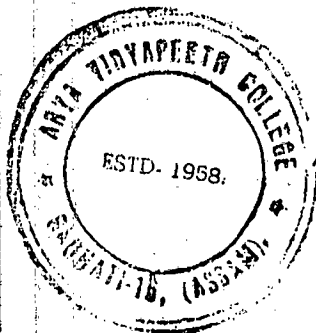
No. 150

This is to certify that Rabin Kalita
 Roll No. 1023 No 803 has duly passed the Higher secondary
Arts/Science (Two yr. Course) final Examination of the Assam
 Higher Secondary Education Council from this College in 1986 and
 was placed in the 1st division.
 While he/she was a student of this College his/her character and
 conduct were good.

I wish him/her success in life.

Verified & written by

Dated

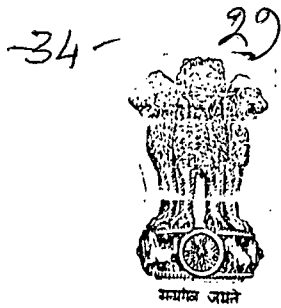


Asuge
 Principal

ARYA VIDYAPEETH COLLEGE
 GUWAHATI - 16

Attested
Dr.
Adv.

Arya Vidyapeeth College



Amx-2 (Sing)
Ay. No. A7
Serial No. A - 5629 40

GOVERNMENT OF ASSAM

PROVISIONAL NATIONAL TRADE CERTIFICATE

Shri/Shrimati/Kumari **Rabin Kalita**

Son/Wife/Daughter of Shri **Krishna Kalita**

having completed the Course of training at **INDUSTRIAL TRAINING INSTITUTE**
Guwahati

and passed the prescribed trade test in the Trade of
Draughtsman (Civil) held on **July '89** One Thousand Nine Hundred
and **eightynine** is awarded this trade certificate provisionally.

The National Trade Certificate will be issued by the National Council for
Vocational Training.

Period of Training: - From **August '87** to **July '89**

CHARACTER **good**

TRADE TEST MARKS:

	MAX. MARKS:	MARKS OBTAINED:
1) Practical (Including Sessional)	400	285
2) Trade Theory (" ")	120	74
3) Workshop Calculation & Science (" ")	60	27
4) Engineering Drawing (" ")	X	X
5) Social studies	50	30
TOTAL	630	416

He/She has also passed in the Additional Subject of Social Studies.

Date of birth as recorded in School Certificate **1.1.69.**

Signature of certificate holder **SRI RABIN KALITA.**

Seal

Address **VILL - CHECHAMUKH.**
P.O. - KULAHATI. DIST. - KAMRUP.

Date.....

L.T.I GU (B) 6000/18.6-88

Principal,
INDUSTRIAL TRAINING INSTITUTE
GUWAHATI-13.



2-30
Ax. No. A9

Serial No. A-2837

Annex-2 (5ms)
37

GOVERNMENT OF ASSAM

PROVISIONAL NATIONAL TRADE CERTIFICATE

Shri/Shrimati/Kumari Nripendra Das

Son/Wife/Daughter of Shri Durga Kt. Das

having completed the Course of training at INDUSTRIAL TRAINING INSTITUTE

Guwahati and passed the prescribed trade test in the Trade of

Draughtsman(Civil) held on February '88 One Thousand Nine Hundred

and eighty eight is awarded this trade certificate provisionally.

The National Trade Certificate will be issued by the National Council for Vocational Training.

Period of Training:- From August '85 to July '87

CHARACTER Good

TRADE TEST MARKS:

	MAX. MARKS:	MARKS OBTAINED:
1) Practical (Including Sessional)	<u>400</u>	<u>274</u>
2) Trade Theory (" ")	<u>120</u>	<u>56</u>
3) Workshop Calculation & Science (" ")	<u>60</u>	<u>33</u>
4) Engineering Drawing (" ")	<u> </u>	<u> </u>
TOTAL	<u>580</u>	<u>363</u>

He/She has also passed in the Additional Subject of Social Studies.

Date of birth as recorded in School Certificate 1-1-66

Signature of certificate holder

Sri Nripendra Das

Address Vill- Amingaoor, P.O. Guwahati-21

Dist- Kamrup (Assam)

Seal

Date.....
Assistant Director of Census Operations
Assam, Guwahati.

Principal,

INDUSTRIAL TRAINING INSTITUTE

GUWAHATI-16.



GOVERNMENT OF ASSAM

অসম চৰকাৰ

OFFICE OF THE DEPUTY COMMISSIONER : KAMRUP

উপায়ুক্তৰ কাৰ্য্যালয় : : কামৰূপ

(ADMINISTRATION BRANCH)

(প্রশাসনীয় শাখা)

No. 53840 / 9419

Dated 18.8.84

ক্রমিক

তারিখ

Certified that Sri/Smti. Narendra Das

প্রমাণ পত্ৰ দিয়া হল যে

থানাৰ

Son/daughter of Benga K. Das of Village/Town

মোজাৰ

গাঁও/নগৰ

Amingraon

Mouza

S.S. Gropa

পদতক/জীয়েক শ্রী/শ্রীমতী

P. S. Kamrup is the permanent resident of

কামৰূপ জিলাৰ স্থায়ী বাসিন্দা হয়।

Kamrup District

অতিৰিক্ত
অতিৰিক্ত নিৰ্বাহক জনগণনা কাম
Ambian Director of Census Operations
Assam, Gauhati.

অতিৰিক্ত
10.8.84
Deputy Commissioner, Kamrup.
উপায়ুক্ত, কামৰূপ।

Deputy Commissioner,
KAMRUP, GAUHATI.

অতিৰিক্ত
অতিৰিক্ত
Adm.

Annex - 2 (sem)

SURJYAKANTA BARUAH PATH GAUHATI-7810022

of 1984

and Disput, the 3rd March, 1976)
 H BATH GAUHATI-7810022
 1994
 Date
 कलकत्ता निदेशक जनगणना कार्य मन्त्रालय
 Director of Census
 Calcutta
 1984

Shri/Smt. Nripendra Das is now
residing at vill/Town/T. E. Amingaen, Garabati - 31 under
Police station Jalukbari in the district Kamrup, Assam

Due
(seal)

President/General Secretary
All Assam OBC Association (seal)
(Authorised) Dist. President/Secretary (seal)

Accepted
Don
Adm.

40
Annexure-3.

No. DCO(E)1/89/Pt.I/4463
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-781007

Dated Guwahati the 3rd June/93

OFFICE ORDER

Shri Jiban Malakar is hereby appointed purely on temporary and adhoc basis as Computer in the office of of the Director of Census Operations, Assam, Guwahati in the scale of pay of Rs. 1200-30-1560-EB-402040/- p.m. plus other allowances as admissible under the Central Govt. Rules as amended from time to time.

The post is purely temporary created specially in connection with the 1991 Census work and would be abolished on completion of the work and the incumbent will be retrenched and the Govt. would have no liability thereafter.

The appointment is adhoc in nature and likely to continue upto 31/12/93 only. However, the appointment can be terminated even before 31.12.93 or the extended period as the case may be by giving one month's notice from the either side or one month's emoluments in lieu thereof.

He should produce the Medical Certificate of his fitness from the Chief Medical and Health Officer in proper form at the time of joining in this office.

He should join immediately.

Sd/- Illegible

(T. SENAPATI)

DIRECTOR OF CENSUS OPERATIONS
ASSAM, GUWAHATI.

Memo No. DCO(E)1/89/Pt. I

Date :-

Copy to :

1. The Pay & Accounts Officer (Census), New Delhi-2.
2. The Asstt. Director of Census Operations (T), (DDO)
3. The Accounts Branch.
4. The Estt. Branch.
5. The Office Superintendent.
6. The Store-in-charge.
7. Shri Jiban Malakar

Sd/-

(T. SENAPATI)

DIRECTOR OF CENSUS OPERATIONS
ASSAM, GUWAHATI

Attestd
Adm
Ad

No. DCO(E)171/71/16361
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-781007

Dated Guwahati the 25.9.91

The final seniority list in the post of Draftsman as on 1.8.91 in the office of the Director of Census Operations, Assam, Guwahati is enclosed herewith for information of all the concerned officials.

Sd/- Illegible 25.9.91

(J.C.BHUYAN)
DEPUTY DIRECTOR OF CENSUS OPERATIONS (SR)
ASSAM, GUWAHATI.

Memo No. DCO(E)171/71/16364 to 69 Date 25.9.91
Copy to :- All the persons concerned.

Sd/- Illegible 25.9.91

(J.C.BHUYAN)
DEPUTY DIRECTOR OF CENSUS OPERATIONS (SR)
ASSAM, GUWAHATI

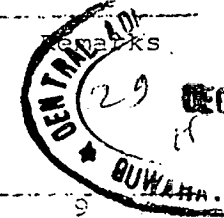
*Attested
Sd/-
Adm.*

33 A

Annex-4

Final Seniority list of Draftsman in the Office of the Director
of Census Operations, Assam, Guwahati as on 1/8/91.

Name	Date of birth	Educational qualification	Date of entry into Govt. Service	Date of Appointment to a post in graded scale of pay in Central Govt.	Date of temporary appointment to the grade in the D.C.O. Assam.	Date of confirmation in the grade	Remarks
2	3	4	5	6	7	8	9
i Minu Kalita	10/7/59	H.S.L.C. Diploma in Draftsmanship	24/12/79	24/12/79	24/12/79	-	Appointed as Artist w.e.f. 30/4/90 (Regular)
Biju Mahanta	13/11/58	P.U. Diploma in Draftsmanship	26/7/80	26/7/80	26/7/80	-	---do---
Renu Mazumdar (S/C)	1/3/48	H.S.L.C. Diploma in Draftsmanship	29/5/70	29/5/70	30/1/81	1/3/76	Confirmed in the Office of the Director of Census Operations (A.P.)
Mamani Kalita	1/4/69	H.S.L.C. Diploma in Draftsmanship	19/10/90	19/10/90	19/10/90	-	
Abul Hussain	31/3/69	H.S.S.L.C. Diploma in Draftsmanship	20/12/90	20/12/90	20/12/90	-	
Rabin Kalita	1/1/69	H.S.L.C. Diploma in Draftsmanship	10/6/91	10/6/91	10/6/91	-	
Nripendra Das	1/1/66	P.U.Sc. Diploma in Draftsmanship	7/6/91	7/6/91	7/6/91	-	
Dhrubajyoti Nath	1/12/66	H.S.S.L.C. Diploma in	6/6/91	6/6/91	6/6/91	-	



*Accepted
25/9/91*

42

Annexure-5

No.DCO(E)21/78/14003
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-781007

Dated Gauhati, December, 12, 1979.

ORDER

Miss Minu Kalita, is hereby temporarily appointed as Draftsman in the office of the Director of Census Operations, Assam, Gauhati in the scale of pay of Rs.330-10-380-EB-12-500-EB-560/- p... plus other allowances as admissible at the Central Government rates.

The appointment is temporary and terminable at any time without notice and without assigning any reasons therefor.

Miss Minu Kalita is to join immediately and in any case not later than 15 days from the date of issue of this order.

She should also produce medical fitness certificate from the Chief Medical Officer, Gauhati at the time of joining.

Sd/- N.K.CHOUDHURY
DIRECTOR OF CENSUS OPERATIONS
ASSAM, GAUHATI

Memo No. DCO(E)21/78/14004-11 Dated 12.12.1979
Copy to

1. The Registrar General, India, 2/4, Mansingh Road, New Delhi-110011.
2. The Pay & Accounts Officer, Census, New Delhi-2.
3. The Asstt., Director of Census Operations (T), Assam, Gauhati.
4. Investigator (Census & Tabulation).
5. The Accounts Branch of this office.
6. Miss Minu Kalita, C/o Shri Rama Kalita, Purbanchal Nagar, Gauhati-3.
7. The Establishment Branch of this office.
8. Personal file.

Sd/- N.K.Choudhury
Director of Census Operations
Assam, Guwahati.

Attested
Adm.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS /GRIHA MANTRALAYA
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI!&

Dated Guwahati 28.12.93

Tentative Programme of Mapping at D.C.O., Assam for
1991 Census (In the level of Draftsman/!Sr.Draftman/
Artist & Sr. Artist).

Projects	Total No. of maps to be prepared	Comple- ted till 27.12.93	Yet to be completed	Remarks
1 District Census Hand Book 1991				
2 a) Experimental Dist.maps & C.D.Blocks	75	8	67	
b) Final Dist. maps Revenue Circle commu- nity Dev. Block	23 75	11 78 8	12 66 67	Yet to comple- te two distri- cts.
2 Maps for Town Directory				
a) Experimental maps	15	8	7	
b) Final maps	15	6	9	
3 <u>Census Atlas</u>	150 (Appox)	-	-	Instructions yet to be re- ceived from the map Division.
Experimental	150	-	-	
Final	150	-	-	
4 Census Cartagra- phy Project & Plans Scheme	8 town maps including enumeration block maps	-	-	Enumeration block maps of the individual towns (approx.) 3000) maps are to be prepared Details inst- ructions awai- ted from the map division.
Computer assis- ted Cartagraphy and date dissemi- nation.				

*Asses for
Dr. Ar.*

Contd.....

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-7

Dated Guwahati 28.12.93

-2-

5 Plans Scheme Regional Division of India '81 project	-	-	-	Instructions awaited from the Map Division.
6 Miscellaneous				Misc. jobs come from time to time

Sd/- Illegible 28.12.93

(K.C.S.Bhagawati)
Research Officer
Map Sections
D.C.O., Assam

Attested
Sd/-
Adm

TELEGRAM

EXPRESS

REGGENLIND
2/A MANSINGH ROAD
NEW DELHI-11

FROM - DIRECTOR OF CENSUS OPERATIONS, ASSAM, GUWAHATI.

REFYOURTEL OF FIFTEEN INSTANT REGARDING MAPPING
STAFF(.) ALL THE POSTS CREATED AGAINST 1991 CENSUS REQUIRE
EXTENSION BEYOND 31/12/93 IN VIEW OF HUGE MAPPING WORKS
RELATING TO DISTRICT CENSUS HAND BOOK AND OTHER RELATED
PROJECTS(.) ANY CUT WILL SERIOUSLY DISLOCATE MAPPING WORKS(.)
LETTER FOLLOWS.

ASSAM CENSUS

NOT TO BE TELEGRAPHED

(N.C.SEN)
ASSISTANT DIRECTOR OF CENSUS OPERATIONS
ASSAM : GUWAHATI

MEMO NO. DCO(E) 7/78/VOL.VIII/9808 DATE-17/12/93
POST COPY IN CONFIRMATION TO :

THE REGISTRAR GENERAL, INDIA NEW DELHI-11.

Sd/- Illegible 17.12.93

(N.C.SEN)

ASSISTANT DIRECTOR OF CENSUS OPERATION
ASSAM, GUWAHATI.

*See serial
9/12/93*

Annexure-8

No. DCO(E)/89/Pt.I/8929-51

GOVERNMENT OF INDIA
Ministry of Home Affairs/Griha Mantralaya
Office of the Director of Census Operations, Assam
G.S.Road, Ulubari, Guwahati-781007

Dated Guwahati the 11.11.1993

To

Shri Nareswar Bora, C/o Rajen Bora
Vill. Bhetapara, P.O. Beltola
Dist. Kamrup.

Your name has been sponsored by the Employment Exchange Guwahati for the post of Draftsman in the office of the Director of Census Operations, Assam, Guwahati.

You are therefore asked to appear before the Selection Board for interview/test to be held in the office of the Director of Census Operations, Assam, Guwahati, Mathuranagar Building, Dispur, Guwahati-6 near Down Town Hospital on 20.11.93 at 10.30. A.M.

You are to bring with you all the Original Educational Qualification certificate and other Certificate to prove your age, etc.

No T.A/D.A. will be allowed for appearing in the interview.

Sd/- Illegible 11.11.93

Assistant Director of Census
Operations, Assam, Guwahati.

*Accepted
Sd/-*

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 270 of 1993

Date of Order : This the 5th day of June, 1998.

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

Shri G.L.Sanglyine, Administrative Member.

1. Md. Abul Hussain,
 2. Shri Dhrubajyoti Nath
 3. " Rabin Kalita and
 4. " Nripendra Das
-Applicants

All the applicants are working as Draftsman in the office of the Director of Census Operation, Assam, Guwahati.

By Advocate Shri B.K.Sharma.

-versus-

1. Union of India,
represented by the Secretary to the
Government of India, Ministry of Home,
New Delhi.
2. The Registrar General of India,
Census Operation,
2/A Man Singh Road,
New Delhi-11.
3. The Director of Census Operation,
Assam, Ulubari, Guwahati-7.
4. The Assistant Director of Census Operation,
Assam, Guwahati-7.

...Respondents

By Advocate S/Shri S.Ali, Sr.C.G.S.C. and G.Sarma, Addl.
C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

The applicants were appointed temporarily as Draftsman in the office of the Director of Census Operations, Assam, Guwahati on the dates mentioned against each of them as below :

<u>Sl. No.</u>	<u>Name</u>	<u>Date of appointment</u>
1	Md Abul Hussain	14.12.90
2	Sri Dhrubajyoti Nath	4.6.91
3	Sri Rabin Kalita	4.6.91
4	Sri Nripendra Das	4.6.91

Contd.....

Attest
Dr. Ali
Adm

The appointments were purely temporary against the posts created specially in connection with 1991 census works which would be abolished on completion of the work and the incumbents would be retrenched with no liability to the Government thereafter. The applicants accepted the offers of appointment and joined their respective posts immediately after their appointment. On 21.12.1993 the respondent No.3, the Director of Census Operations, Assam issued Office Order No. DCO(E) 97/80/Vol.I/9922-68 dated 21.12.1993, Annexure-H, terminating the services of the applicants among other employees with effect from 31.12.1993. The applicants felt aggrieved with effect from 31.12.1993. The applicants felt aggrieved with the order of termination of their services and had submitted this Original Application (O.A. for short). They were allowed to join in a single application vide order dated 31.12.1993.

2. According to the impugned order the services of the applicants were terminated on expiry of sanction to the posts with effect from 31.12.1993. The applicants have disputed the action of the respondents. According to the applicants works relating to them were in existence even after 31.12.1993. This is evident from the fact that there was new recruitment to the posts of Draftsman and from various letters written by the local authorities to the Registrar General, India seeking extension of sanction of the posts created against 1991 census beyond 31.12.1993. Moreover, the applicants were sponsored by the Employment Exchange and they were appointed after the interview and the respondents had treated the applicants as regular employees and included their services in the manner it was done. There is also discrimination in terminating their services as other Draftsman ~~terminating their services as other~~ who were appointed under same terms and conditions as those of the

Agreed
[Signature]

applicants were retained in service. The applicants also submitted that even if there was no work for them there was no occasion for the respondents to terminate the services as there are even nos vacancies in other posts such as Assistant Compiler and Lower Division Clerks against which the applicants can be accommodated and they referred to the letter No. DCO/45/75/345 dated 21.1.1998. The respondents have contested the application and submitted written statement. According to the respondents the four posts of Draftsman were created specially for 1991 census and the terms had been clearly stipulated in the appointment letters. It was decided that the posts were no longer necessary after 31.12.1993 and sanction was not extended. Therefore, the services of the applicants had to be terminated. The appointments were on ad hoc basis and for specified period and therefore such appointment does not confer any right on the applicants to continue in service indefinitely. In this regard they have relied on Director, Institute of Management Development, U.P. Vs. Pushpa Srivastava reported in (1992) 21 ATC 377. They also contend that mere inclusion of the names of such ad hoc employees such as the applicants in the seniority list of Draftsman does not confer to them any right to continue in the posts. Regarding the contention of the applicants that new recruitments were being made at the relevant time, the respondents have submitted that though interview for appointment to the post of Draftsman was held on 30.11.1993 but since they came to know that the posts were not to continue beyond 31.12.1993, as a result of the interview no appointment was made. Another appointment made to the post of Draftsman was not against 1991 census posts but it related to a reserved post for scheduled Tribe. Regarding availability of mapping works the respondents contend that assessment of the works requirements

were undertaken by the competent authority and it was decided that the work could be carried out by the permanent staff.

3. We have heard counsel of both sides. From the records submitted by Mr Ali three posts of Draftsman were sanctioned vide order dated 6.4.1990 and another post by order dated 29.9.1990 by the competent authority for the Director of Census Operation, Assam, Guwahati in connection with the 1991 census work. According to the appointment letters the posts were purely temporary created specially in connection with 1991 census and would be abolished on completion of the work and the incumbent will be retrenched. This work mentioned in the appointment letters must necessarily be the work concerning the posts. It is true that no time limit for completion of the work is mentioned in the appointment letters and that the 1991 census work in some respects was not completed as on 31.12.1993 but the work stipulated must necessarily as mentioned already relate to the posts specially created for 1991 census and occupied by the applicants. The competent authority has the power to make assessment of the work requirement and to come to a conclusion whether the work with reference to a certain post had been completed or not. It appears that in this case the posts were initially sanctioned for a short period but sanction was extended upto 31.12.1993. In 1993 the Registrar General, India however after making assessment on all India basis regarding work requirement had decided that all the posts specially created for the 1991 census were no longer necessary to be retained beyond 31.12.1993. Consequently, on 30.11.1993 he had issued the order that the posts will stand abolished with effect from 31.12.1993. It is true that thereafter the local authority had made attempt to alter the decision of the competent authority by sending

letters to him. But they had no effect to alter the decision. Therefore, the fact remains that the four posts of Draftsman created for 1991 census stood abolished from 31.12.1993. Respondents No.1 and 2 are within their powers to create or abolish posts after taking assessment of the requirement of their organisation. In this case they had abolished the posts created specially for the 1991 census through out the country. When the posts have been abolished it is clear that according to the competent authority of the respondents there was no more work for the posts or alternative arrangement can be made to carry out the pending work if any. It is within their power to make such assessment and decision. In the circumstances were of the view that the competent authority had not arbitrarily discontinued the sanction to the posts. Termination of service in such circumstances is permissible. In State of Himachar Pradesh Vs. Suresh Kumar Verma and another reported in 1996(1) A.T.J. 618 the Hon'ble Supreme Court had upheld the termination of service of Daily Wage Employees when there was no work as the Project they were engaged in had come to an end. Regarding the other contention of the applicants that they were treated as regular employees and included in the seniority list. We are of the view that mere inclusion of name of ad hoc employees in the seniority list does not confer on them a right to continue in the service specially when as in the case of the applicants have they were only appointed temporarily on ad hoc basis for a particular work with clear intention to dispense with their services when work is completed. Such inclusion in the list cannot also give rise to expectation of being permanently absorbed in view of the clear stipulation in their appointments. There are certain factual instances the applicants have referred to justify their contention. They have pointed

out to the case of one Minu Kalita and submitted that ~~her~~ service was not terminated. It however appears from the appointment letter of Minu Kalita at Annexure-D that though she was appointed temporarily as a Draftsman she was not appointed against any posts created specially for a particular census. Her appointment is temporary and can be terminated at any time without notice and without assigning any reason. Therefore the case of Minu Kalita is not similar with the case of the applicants. Further, on perusal of the records produced by the respondents. We find the other contention of the applicants that Draftsmen who had been appointed had never been retrenched on the ground of completion of Census work to be incorrect. Yet another of their contentions is unacceptable. According to records it is seen that an interview for appointment to the post of Draftsman was held on 30.11.1993 in Guwahati but on the same date, that is, 30.11.1993 the Registrar General, India had issued the order discontinuing sanction to all the posts created specially for 1991 census all over the country. Therefore there is force in the contention of the respondents that no new appointment was made pursuant to the interview. Further, it transpired during the course of hearing that the other appointment referred to by the applicants was in connection with a back log reserved ~~xxxxxxtheapplicantxxxxxxwasxxxx~~ post for Scheduled Tribe. Therefore, this instance of appointment is also of no help to the contention of the applicants that new appointments were made while their services were terminated. In the light of the above we do not find any merit in the contention of the applicants that the impugned order dated 21.12.1993, Annexure-H, is liable to be quashed and to issue direction on the respondents to continue the applicants in service. The prayer therefore cannot be allowed.

4. The applicants were allowed to continue in service on the strength of interim order dated 31.12.1993. However, one of them had since left his service under the respondents. For the remaining applicants it was contended that they can be retained in service against other vacancies under the control of respondent No.3. In Union of India Vs. Vinesh Kumar Saxena, reported in (1995) 29 ATC 585 the Hon'ble Supreme Court had held among others as follows :

"Ends of justice will be met if the Directorate of Census Operations, U.P. is directed to consider those respondents, who have worked temporarily in connection with 1981 and/or 1991 census operations and who have been subsequently retrenched, for appointments 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 those posts."

Other directions such as relaxation of age were issued. We have no doubts that Respondent No.3 will take action in lines indicated in the judgement above in the case of the applicants also if occasion for appointment arises in near future. There may also be scope to offer the applicants appointments on purely ad hoc basis against some purely ad hoc vacancies. The applicants may approach him individually in these regards if they desire.

The application is disposed of with no order as to costs.

Sd/- Vice-Chairman

Sd/- Member (Admn.)

Attested
Sd/-
Adm.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

ORDER SHEET

APPLICATION No.161/99

Applicant(s) Bimalananda Das and Ors.

Respondent(s) Union of India and Ors.

Advocate for Applicants : Mr. M.Chanda,

Advocate for Respondent(s) Mr. A. Deb Roy, Sr. C.G.S.C.

16.2.00

This application has been filed by 3 applicants with prayer for joining in a single application.

Heard the learned Mr. M.Chanda, learned counsel for the applicants and Mr. A.Deb Roy, learned Sr. C.G.S.C. Permission is granted in terms of Rule 4(5) (a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

The learned counsel for the parties submit that the case may be disposed of at the admission stage itself.

The facts for the purpose of this case are :

The 3 applicants are retrenched Census employees in the office of the Director, Census Operations, Assam, Guwahati. They were applicants in O.A. No. 269/93 and by order dated 5.6.1998 the said application was disposed of indicating to the respondents to act in accordance with the decision of the

Contd...

*Attested
Dr. A
Adc*

16.2.2000

Hon'ble Supreme Court in Union of India
-vs- Dinesh Kumar Saxena, reported in
(1995) 29 ATC 585, when occasion for
making appointment would arise in near
future. The applicants approached the
respondents, but no appointment had been
made. However, they were directed to apply
against any suitable vacancy that may
occur in future. According to the applicants
there are vacancies, but no appointment
has been given to them.

Mr. Chanda submits that the case of
the applicants are squarely covered by
the decision of this Tribunal dated 20.1.
2000 in O.A. No. 415/1999, O.I. Singh Vs.
Union of India and Others, in this order
it was held :

"it is agreed by the counsel
for the parties that as per the decision
of the Apex Court in Government of Tamil-
nadu and ~~anbeher~~ Vs. G.Md. Ammendden and
others (1999) 7 SCC 499 the applicant is
entitled to get the appointment when the
new vacancy will arise. As per the said
decision the learned counsel for the par-
ties submit that the applicant may be
~~absorbed~~ in the vacancy that will occur
for census of 2000, in a suitable post
which he is entitled to following the
judgement of the Apex Court....."

Contd...

16.2.2000

In view of the above, following our decision in the aforesaid case we dispose of this application with direction to the respondents to absorb the applicants in vacancies that will occur for Census Operations of 2000 in suitable posts for which the applicants are entitled to following the judgement of the Apex Court referred to above. The respondents shall make the appointments immediately within a reasonable time after occurrence of the vacancies, not later than two months from the date of receipt of this order.

The application is disposed of. No order as to costs.

Sd/- Vice Chairman

Sd/- Member (Admn.)

Attested
[Signature]

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

APPLICATION NO. 76/2000

Applicant(s) : Sri Arjun Baruah
Respondent(s) : Union of India and Ors.
Advocate for the Applicant(s) : Mr. M.Chanda, Mrs., N.D.Gowsami.
Mr. G.N.Chakraborty.
Advocate for Respondents : ~~MrxxGx~~ C.G.S.C.

25.2.2000

Heard Mrs. N.D.Goswami, learned counsel for the applicant and Mr. B.C. Pathak, learned Addl. C.G.S.C.

The learned counsel for the parties submit that the case may be disposed of at the admission stage itself.

The facts for the purpose of this case are :

The applicant is a retrenched Census employee in the office of the Director, Census Operations, Assam, Guwahati. He was applicant in O.A. No. 269/93 and by order dated 5.6.1998 the said application was disposed of indicating to the respondents to act in accordance with the decision of the Hon'ble Supreme Court in Union of India vs- Dinesh Kumar Saxena, reported in (1995) 29 ATC 585, when occasion for making appointment would arise in near future. The applicant approached the respondents, but appointment had been made. However, he was directed to apply against any suitable vacancy that may occur in future. According to the applicant there are vacancies, but no appointment has been given to him.

Contd....

*Accessed
San
Aem*

Annexure-11 (Contd.)

25.2.2000
Contd.

Mrs. Goswami submits that the case of the applicant is squarely covered by the decision of the Tribunal dated 20.1.2000 in O.A. No. 415 of 1999, O.I. Singh vs- Union of India and Others. In this order it was held :

" It is agreed by the counsel for the parties that as per the decision of the Apex Court in Government of Tamilnadu and another Vs. G.Md. Ammendden and others (1999) 7 SCC 499 the applicant is entitled to get the appointment when the new vacancy will arise. As per the said decision the learned counsel for the parties submit that the applicant may be absorbed in the vacancy that will occur for Census of 2000, in a suitable post which he is entitled to following the judgement of the Apex Court...."

In view of the above, following our decision in the aforesaid case we dispose of this application with direction to the respondents to absorb the applicant in vacancies that will occur for Census Operations of 2000 in suitable post for which the applicant is entitled to following the judgement of the Apex Court referred to above. The respondents shall make the appointment immediately within a reasonable time after occurrence of the vacancies, not later than two months from the date of receipt of this order.

The application is disposed of. No order as to costs.

Sd/-Vice-Chairman
Sd/- Member (Admn)

all is fine
Ad

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION No. 142/2000

Applicants : Bimalananda Das and Ors.

Respondents : Union of India and Ors.

Advocate for the Applicant(s) : Mr. M.Chanda, Mr.N.D.Goswami

Advocate for the Respondent(s) : C.G.S.C.

8.5.2000 Present : Hon'ble Mr. A.K.Mishra, Judicial Member.

Mr. J.L.Sarkar, learned counsel for the applicants and Mr. A.Deb Roy, learned Sr. C.G.S.C. for the respondents present. This case was listed on 31.5.2000 and has been taken on board today on the oral submission of the learned counsel for the applicants. Learned counsel for the applicants submits that in this case the respondents have issued Annexure-3 order ignoring the benefit granted to the applicants vide order dated 25.2.2000 for absorption. He further submits that the order dated 25.2.2000 is in favour of the applicant Sri Arjun Barua and the Order dated 16.2.2000 passed in O.A. 161/99 is in favour of other 3 applicants. But the respondents are adopting another mode of recruitment for filling up the vacancies for the census operation 2000-01 by ignoring the direction of absorbing the applicants for such posts. In view of this the operation of order of respondents, Annexure-2 dated 23/24.2.2000 be stayed. Learned counsel for the respondents submits that there is no intention to disregard the order passed by the Tribunal. However, a different scheme has been formulated by the Central Government so that after the census operation is over

Contd...

*Attest for
D.A.*

8.5.2000 the persons who are proposed to be taken on deputation can be sent back to their department. Moreover, there is a ban on direct recruitment and hence the question of absorption at the moment cannot be taken in hand by the respondents and therefore the scheme as formulated by the Central Government relating to filling the posts to carry on the census operation should not be stayed.

I have considered the rival arguments. In my opinion staying the operation of Annexure-3 order dated 23/24.2.2000 will result in complete stoppage of census work and therefore the prayer of learned counsel for the applicants in this respect cannot be granted. But at the same time the order dated 16.2.2000 and 25.2.2000 passed in two different O.As also cannot be lost sight of, in which there were clear directions to the respondents authorities to absorb the applicants on the suitable vacancies in the census operation of 2000-01. In view of this I am of the opinion that while the concerned authorities may go ahead in calling the prospective candidates on deputation as per Annexure-3 circular dated 23/24.2.2000 they shall also consider and adjust the present 4 applicants as directed vide order dated 16.2.2000 and 25.2.2000. The benefits of these orders would be restricted only to the present 4 applicants who are agitating their cases, ~~they shall~~ It is made clear that this direction shall not apply to other similarly situated persons who have not agitated their rights before the Tribunal. It is further ordered that adjustment/absorption of the applicants in pursuance of

Contd...

8.5.2000

the order passed today will not convert any right on the applicants to further continue their services after the census operation is over unless their claims are considered on merits as highlighted in the O.A.

List on 29.5.2000 for further orders.

Sd/-Member (J)

Attested
AA
Ar

No. DCO(E)50/99/2172

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S.ROAD, ULUBARI, GUWAHATI-781007

Dated Guwahati the 23/24.2.2000

C I R C U L A R

It is proposed to fill up some posts as shown in ANNEXURE-I by suitable officials from Central/State Government Departments for appointment by transfer on deputation on ad hoc basis to the posts in the O/o the Director of Census Operations, Assam Guwahati. The pay of the officials selected for these posts will be regulated in accordance with the Ministry of Personne's O.M. No. 2/12/87-Estt./Pt.II dated 29.4.88.

2. Officials who volunteer for these posts will not be permitted to withdraw their names later.

3. As these posts are required to be filled up by ad hoc deputation for 2001 census time bound work, it is requested that names of suitable officials who are willing and eligible and who can be spared immediately may be recommended. The C.R.dossiers for last five years of the recommended officers alongwith their application as per Annexure-II and vigilance clearance certificate may be forwarded to this Directorate latest by 31.3.2000. Incomplete applications of received after the closing date will not be entertained.

The period of deputation will be initially for a period upto 28-2-2001 which may be extended for further period.

Sd/- Illegible
(M.R.DAS)

DIRECTOR OF CENSUS OPERATIONS
ASSAM, GUWAHATI.

Memo No. DCO(E)50/99/2173-2185

Date 23.2.2000

Copy to 4

1. The Registrar General, India, 2/A Mansingh Road, New Delhi 110011 with reference to his letter No.12011/4//2000-Ad.IV dated 14.2.2000.

Contd...

2. All DCO's State/UTs and Deputy Registrar General (L) Calcutta.
3. The Deputy Director (Advertising), Directorate of Advertising and visual publicity, PTI Building, Samsad Marg, New Delhi-11 for publication in the Employment News.
4. The Circulation-cum-Advertising Manager, Employment News, East Block-IV, R.K.Puram, New Delhi.
5. All Head of offices, Central Govt.
6. All Heads of State Govt. offices to the Govt. of Assam.
7. The Secretary (GAD), Dispur, Guwahati.
8. The Secretary to the Govt. of Assam (SAD), Dispur.
9. The Commissioners of Divisions Govt. of Assam.
10. All Deputy Commissioners,
11. All Sub-Divisional Officers (Civil)
12. Notice Board.

Sd/- Illegible 24.2.2000

(M. R.DAS)

DIRECTOR OF CENSUS OPERATIONS : ASSAM
GUWAHATI

A N N E X U R E - I

Name of the post and pay scale	<u>Eligibility condition</u>
Upper Division Clerk Rs.4000-100-6000/-p.m.	(i) Officials Central/State Govt. holding analogous posts in the pay scale of Rs.1200-2030/- (Pre revised) or with at least 8 years regular service in the LDC/Typist posts carrying pay scales of Rs.950/- - 1500/- (pre-revised) and possessing the following qualifications. (ii) Degree of a recognised University or equivalent.
Draftsman Rs.4500-125-7000/-p.m.	Officials from Central/State survey offices. i) Matriculation or equivalent. ii) Diploma in commercial or Fine Art or Draftsmanship from a recognised institution with some knowledge in drawing maps, charts and book covers.
Proof Reader Rs.4000-100-6000/-p.m.	<u>Desirable</u> At least one year experience as draftsman cum Artist. Officials of Central/State Govts. holding analogous post or at least 5(five) years regular service in posts carrying pay scale of Rs.950-1500/- (pre-revised) and possessing the following qualifications. i) Degree of a recognised University or equivalent. ii) Two years experience of Proof Reading and technical marking.

Contd....2

Attest
Ad

Annexure-23 (Contd.)

Computer

Rs.4000-100-6000/- p.m.

Officials of the Central Govt./ State Govt. holding analagous posts or with 8 years regular service in the posts in the scale of Rs.3050-75-3950-80-4590/- or equivalent and passing the following educational qualifications.

Essential : Degree with Economics or statistics or Mathematics as a subject from any recognised university.

Desirable : Possessing experience of field survey & Tabulation of Statustical data.

Lower Division Clerk

Rs.3050-75-3950-80-4590/- p.m.

Officials of the Central/State Govt. holding analagous posts and having the following educational and other qualifications.

- i) Matriculation or equivalent.
- ii) Minimum speed of 30 words per minute in typewriting (in English).

Sr. Technical Asstt.
(Ptg.).

Rs.5500-175-9000/- p.m.

Officers of the Central/State Govt.

- i) Holding analogous post or with at least three years regular service in posts carrying pay scale of Rs. 1400-2300/- (pre-revised) and
- ii) having five years experience in printing work, proof reading and technical marking.

Sr Stenographer

Rs.5000-150-8000/- p.m.

Officials of the Central Govt./ State Govt.

- a) i) holding naalogous post on regular basis.
- ii) with five years regular service in the grade of Rs.1200-2040/- (pre-revised).
- b) Possessing a speed of 100 words per minute in Stenography (English/Hindi).

Contd.....3

Annexure-13 (Contd.)

Asstt. Compiler
Rs. 3050-75-3950-80-
4590/- p.m.

Officials of the Central/State
Govt.

- i) Matriculation or equivalent
- ii) Minimum speed of 30 words per minute in Type writing (English) or proficiency in operating calculating machines.

or

Experience in coding and punching in an office of firm having ~~xxxxxxx~~ mechanical tabulation equipment.

Officials of the Central/
State Govt.

Peon
Rs. 2550-55-2660-60-3200 p.m.

Attested
Adm
Adm

A N N E X U R E -III

1. Name of applicant :
2. Date of Birth :
3. Post held on regular basis:
4. Date of regular appointment:
to the post
5. Present post held (whether):
ad-hoc/regular with date
of appointment
6. Scale of pay :
7. Present pay :
8. Whether SC/S¹ :
9. Educational qualifications:
10. Brief Service Particulars :

Period		Post held in regular basis	Scale of pay	Nature of work
From	To			
1	2	3	4	5

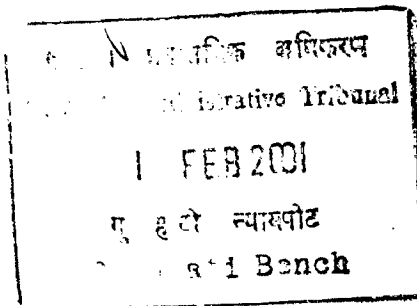
Signature of applicant

Certificate to be given by the Head of Office of the applicant.

1. It is certified that the particulars furnished by the official are correct.
2. It is certified that no disciplinary case is pending or contemplated against applicant and he/she is clear from vigilance angle.

Head of office

*Attest and
Sign*



-60-
10/2/2001
(B. G. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :::: GUWAHATI.

O.A. NO. 388/2000 .

Md. Abul Hussain and Others.

..... Applicants.
- Versus -

Union of India and Others.

..... Respondents.

(Written Statements filed by the respondents
No. 1, 2, 3 and 4)

The Written Statements of the abovenoted respondents
are as follows :

1. That the copy of the O.A. No. 388/2000 (referred to as the "application") has been served on the respondents. The respondents have gone through the said application and understood the contents thereof. The interest of the respondents being common and similar common written statements are filed by all the respondents.
2. That the statements which are not specifically admitted are hereby denied by the respondents.
3. That with regard to the statements made in para 1 of the application, the respondents state that the Govt. of India, has sanctioned a few purely temporary posts to this Directorate to attend the additional works in connection with

the 2001 Census w.e.f. 1.2.2000 to 28.2.2001 vide letter No. A.11020/1/99-Ad.II dated 1.2.2000 (

A copy of the letter dated 1.2.2000 is annexed herewith and marked as Annexure - I.

The Registrar General, India, New Delhi has also issued instructions to the Director of Census Operations of All States/UTs vide letter No. 12011/4/2000-Ad.IV dated 14.2.2000 to fill up these purely temporary posts either by promotion of eligible staff or on deputation basis in accordance with the provisions of Recruitment Rules.

A copy of the letter dated 14.2.2000 is annexed herewith and marked as Annexure - II.

Accordingly, this Directorate has filled up some of posts by giving promotion to the eligible officials from the feeder grades and issued the circular No. DCO(E)50/99/2172 dated 23.2.2000 to fill up the remaining vacancies/resultant vacancies from the officials of the Central/State Govt. departments on deputation basis. Therefore, this Directorate has issued the above circular not to avoid implementation of the judgement and order dated 5.6.98 passed in O.A. No. 270/93 but to implement the standing instructions of the Govt. for filling up the purely temporary posts sanctioned in connection with the 2001 Census.

4. That the respondents have no comments regarding the statements made in para 2, 3, 4.1 and 4.2 of the application.

5. That with regard to the statements made in para 4.3, the respondent beg to state that the applicants were appointed on purely temporary and ad-hoc basis against the posts

created for 1991 Census and it was specifically mentioned in their appointment letters that their services will be dispensed with on completion of 1991 Census work for which these posts were created. Accordingly the applicants were terminated on discontinuation of the posts created in connection with 1991 Census w.e.f. 31.12.1993. The applicants however filed an O.A. No. 270/93 before the Hon'ble Tribunal against the termination order No. DOO(E)97/80/Vol. I/9921 dated 21.12.1993. The Hon'ble Tribunal disposed of the O.A. No. 270/93 dated 5.6.1998 with reference to the judgement passed by the Hon'ble Supreme Court in the case of UOI Vs Dinesh Kr. Sexena reported in (1985) 29 ATC 585.

6. That the respondents have no comments to para 4.4 of the application.
7. That with regard to the statements made in para 4.5 the respondents beg to state that the applicants were appointed on purely temporary and adhoc basis against the purely temporary posts created for 1991 Census. They were therefore paid all the benefits as admissible under the temporary service Rules. The appointment letter issued to the applicants and to Shri Jiban - Malakar (as alleged by the applicants) are not in different language as it contains all the conditions of appointment of the applicants.
8. That with regard to the statements made in para 4.6, the respondents beg to state that the applicants have been paid all the benefits, as admissible to temporary Govt. Servants as per rule for the period of service rendered in this office.
9. That with regard to the statements made in para 4.7 the respondent beg to state that the applicants were appointed

against the temporary posts created for 1991 Census Works and were terminated after discontinuation of sanction w.e.f. 31.12.1993. In the instant example, Mrs. Minu Kalita was continuing against 1981 post as the post is continuing. But the posts of Draftsman created for 1991 Census work were discontinued and as a result the services of these applicants had to be terminated.

10. That the respondents with regard to para 4.8 re-assert and re-iterate the foregoing statements of this written statements.

11. That with regard to the statements made in para 4.9, the respondent beg to state that a tentative programme for mapping alongwith demands for continuation of some posts of 1991 Census were forwarded to the Registrar General, India, New Delhi but the O/O the Registrar General, India had informed that the matter was reviewed by the Govt. in the Ministry of Finance and the Ministry did not considered it necessary to continue the post as many of the inter-censal projects are likely to be discontinued. With this idea in view the posts of Research Officer (Map), Sr. Artist, Artist etc. too were discontinued.

12. That with regard to the statements made in para 4.10, the respondent beg to state that the statement made by the applicants are not based on facts. It was made clear in the offer of appointment itself that the services of the applicants are temporary and ad-hoc in nature and they were appointed against 1991 Census posts for a specific period. The fact was within their knowledge and knowing fully well that situation they had taken up their assignment. However, the Employment Exchange's are requested to re-enroll their names after termination of service. Regarding

holding of interview for the post of Draftsman on 11.11.1993 it is stated here that an interview was held on 11.11.1993 and the candidates sponsored by the Employment Exchange were interviewed for the purpose. The appointment was not done against the post of Draftsman as indications were available by that time that those posts were likely to be discontinued w.e.f. 31.12.1993.

13. That with regard to the statements made in para 4.11, the respondent beg to state that the Directorate of Census Operations is not like any other Central Govt. ~~Empia~~ Department. Here the volume of work expands at the time of decennial Census for 1 to 2 years and thereafter the volume comes down to a normal level. The remaining works are to be attended, including the mapping works, by the regular staff. Therefore, the services of the applicant could not be regularised as they were appointed specifically for 1991 Census works.

14. That with regard to the statements made in para 4.12, the respondent beg to state that the applicants filed on O.A. no. 270/93 before the Hon'ble Tribunal against the termination order issued vide this office letter No. DCO(E)97/80/Vol.I/2922-48 dated 21.12.1993 and passed an interim order dated 31.12.1993 directing the respondents to continue their service till disposal of the O.A.

15. That with regard to the statements made in para 4.13, the respondents beg to state that the Hon'ble Tribunal disposed of the O.A. No. 270/93 dated 5.6.1998 with ~~ref~~ reference to the judgement passed by the Hon'ble Supreme Court in the case of U.O.I. Vs Dinesh Kr. Sexena reported in (1995) 29 ATC 585.

16. That with regard to the statements made in para 4.13, the respondent beg to state that the applicant filed a writ petition CR No. 2924/98 before the Hon'ble Guwahati High Court against the judgement order No. 270/93 dated 5.6.1998 passed by the Hon'ble Tribunal which is still pending.

A copy of the interim order passed by the Hon'ble High Court in CR No. 2924/98 dated 17.6.98 is annexed herewith and marked as Annexure -III.

The applicants also filed a Misc. Petition No. 747/99 (CR No. 2924/98). The Hon'ble High Court has disposed of the Misc. Petition on 2.7.1999 with the direction that the pending of the writ petition shall not be a bar for the respondents to appoint/absorb the petitioners subject to the availability of the posts.

order passed in

A copy of the ^A ~~letter~~ Misc. Petition dated 2.7.1999 is annexed herewith and marked as Annexure -IV.

The applicants further approached to the Hon'ble High Court through Misc. case No. 323/2000 (CR No. 2924/98) against the vacancy circular No. DOO (E) 50/99/2172 dated 23.2.2000 issued by this Directorate for filling up the purely temporary posts sanctioned for 2001 Census by deputation basis. The above Misc. case however been dismissed by the Hon'ble High Court on the ground that the case of present applicants is neither covered by the direction issued by the Tribunal in the order impunged in the Writ Petition or by any judicial pronouncement .

~~A copy of the letter dated 23.2.2000 is annexed herewith and marked as Annexure -V.~~

As regards the appointment of other similarly situated persons, it is stated here that these applicants of O.A. No. 269/93 viz. Shri Bimalandj Das, Shri Harish Rabha and Shri Nagen Rabha terminated employees of 1991 Census filed the O.A. No. 161/99 and Shri Arjun Baruah filed the OA No. 76/2000 before the Hon'ble Tribunal and the Hon'ble Tribunal has directed the respondents to appoint the applicants immediately but not later than 2(two) months from the date of receipt of the order dated 16.2.2000 and dated 25.2.2000 respectively. However, the respondent filed the Review Application by bringing the factual position before the Hon'ble Tribunal vide RA No. 13/2000 (OA No. 161/99) and RA No. 5/2000 (OA No. 76/2000) to review the order dated 16.2.2000 and 25.2.2000 passed by the Hon'ble Tribunal. The Hon'ble Tribunal has however passed an interim order on the OA No. 142/2000 dated 8.5.2000 filed by the applicants of OA No. 161/99 and 76/2000 & directing the respondents to appoint the applicants against the vacancies of 2001 Census. The Hon'ble Tribunal also ordered that the benefit would be restricted only to the 4(four) applicants of the OA No. 142/2000 only. It is also ordered that adjustment of the applicants will not confer any right to the applicant to further continuance of their service after Census Operation is over. Considering the terms and conditions given by the Hon'ble Tribunal the respondent allowed them to join against the vacancies available on the date for a period upto 28.2.2001. However, DCO., Assam is facing a charge for violating the Govt. instructions. It is reiterated that this Directorate issued the circular dated 23.2.2000 for filling up the purely temporary posts sanctioned for 2001 Census. These vacancies in the post of Draftsman have occurred due to promotion of existing incumbents to the next

higher grade/posts sanctioned for 2001 Census upto 28.2.2001 and they are to be reverted back on that date. As per standing instructions of the Govt. (Annexure-II) these posts are to be filled up by deputation only. Accordingly, this Directorate has re-circulated the vacancies for filling up these posts on deputation basis vide this office circular No. DCO(E)50/99/7769 dated 10.7.2000. Therefore the applicants cannot be considered for appointment against the posts for 2001 Census by violating the standing Govt. instructions.

17. That with regard to the statements made in para 4.14. the respondent beg to state that as per judgement of the Hon'ble Supreme Court in the case of U.O.I. Vs Dinesh Kr. Sexena reported in (1995) 29ATC 585, the respondents are directed to consider the retrenched Census employees after taking into account the length of their services for relaxation of their age limit for appointment in the vacancies arising in future and meant for direct recruitment provided they are otherwise qualified and eligible .

A Copy of the judgement of the Hon'ble Supreme Court is annexed herewith and marked as Annexure - V.

The details of the facts & has been informed to the applicants vide this office letter No. DCO(E)34/98/5456-58 dated 5.5.2000.

Copy of the letter dated 5.5.2000 is annexed herewith and marked as Annexure - VI.

18. That with regard to the statements made in para 4.15 the respondents beg to state that the respondent have to follow the direction of the Govt. for filling up the purely temporary posts sanctioned for 2001 Census. For direct recruitment to the regular vacancies arising in future in the post of Asstt. Compiler/ LDC etc. SSC is the proper authority to select and sponsor candidate

No appointment in the above posts can be made without sponsorship from the SSC. A reference to the SSC will not therefore be violative of the Recruitment Rule framed for the purpose and for violation of Recruitment Rules/ the respondent is liable for departmental action.

19. That with regard to the statements made in para 4.16, 5.1, to 5.10 the respondent humbly pray before the Hon'ble Tribunal to dismiss the application on the grounds stated above.

~~Therewith~~ The respondent beg to state that the respondent issued the vacancy circulars and filled up the posts sanctioned in connection with 2001 Census strictly in compliance with the direction and instruction of the govt. and not to avoid implementation of the judgement and order passed in O.A. No. 270/93 by the Hon'ble Tribunal. The applicants cannot be accommodated against these vacant posts which are to be filled only by promotion or on deputation basis as these posts will be discontinued after the expiry of sanction w.e.f. 28.2.2000.

20. That with regard to the statements made in para 6 and 7, the respondent beg to state that this Directorate have advised the applicants to apply for the regular vacancies whenever notified by the DCO through recruiting agency commensurate with their qualification. The respondent beg to state that the applicant filed a GR NO. 2924/98 in the Hon'ble Guwahati High Court against the judgement passed by the Hon'ble Tribunal in OA. No. 270/93 dated 5.6.1998 which is still pending.

21. That with regard to the statements made in para 8.1 to 8.4 and 9.1 to 9.2 the respondents state that the applicants are not entitled to any relief whatsoever, the application being

devoid of any merit is also liable to be dismissed with cost.

In the premises aforesaid the respondents pray that Your Lordships would be pleased to dismiss the application on the grounds stated above and allow the respondents for filling up the posts on deputation basis so that the Census works relating to 2001 Census, which is an important National Task as the same has to be completed strictly as per Census calendar all over the country, could be started and completed within the time frame.

VERIFICATION

I, Shri Sunil Kumar Baruah, presently working as Asst District Director of Census Operation

Assam being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that the statements made in para 1, 2, 4 to 5, 18 to 21. are true to my knowledge and belief, those made in para 3, 16, 17 being matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not concealed/suppressed any material facts.

And I sign this verification on this 9th day of February, 2001, at Guwahati.

Sunil Kumar Baruah

Deponent
असम निर्देशक-जनगणना प्रयोग ; असम
Assistant Director of Census Operation, Assam
गुवाहाटी / Guwahati.

1 "प्रमाणित"
Telegram : "REGGLNLIND"

सं/No. A.110201/99-Ad.11

भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA
भारत के महा रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA
2/A, MANSINGH ROAD,

नई दिल्ली, दिनांक 1.2.2000
New Delhi, the

To

The Pay & Accounts Officer (Census),
Ministry of Home Affairs,
AGCW&M Building,
New Delhi.

SUB: Census of India - 2001 - Creation of temporary posts
in the headquarters of the Directorate of Census
Operations.

Sir,

In pursuance to this office order No. A-11020/1/99-
Ad.11 dated 19.1.2000, I am directed to convey the sanction of
the President of India to the creation of the under-mentioned
temporary posts for the Directorate of Census Operations, Assam
with effect from 1.2.2000 for a period upto 28.2.2001 or till
further orders whichever is earlier in connection with the
Census of India - 2001 Census work :-

Sl.No.	Name of the post	Scale of pay	No. of posts created
1	2	3	4
1.	Jt. Director of Census Operations	Rs.10,000-15,200	1
2.	Asstt. Director of Census Operations (G)	Rs. 8,000-13,500	1
3.	Research Officer	-do-	1
4.	Investigator	Rs. 5,500-9,000	2
	Accountant	Rs. 5,500-9,000	2

Contd...

6.	Confidential Asstt.	-do-	1
7.	Sr. Drawing Assistant	-do-	1
8.	Sr. Technical Asstt. (Ptg.)	-do-	1
9.	Sr. Artist	Rs. 5,000-8,000	1
10.	Sr. Draftsman	-do-	1
11.	Printing Inspector	-do-	1
12.	Statistical Asstt.	Rs. 4,500-7,000	5
13.	Computer	Rs. 4,000-6,000	11
14. ✓	UDC	Rs. 4,000-6,000	2
15.	Daftry	Rs. 2,610-3,540	1
Total :			32

2. Dearness and other allowances shall be admissible as per the rules and regulations issued by the Government of India from time to time.

3. The expenditure involved is non-plan and is debitable to the Major Head 3454-Census, Surveys & Statistics; 01-Census; 800.02 - Abstraction and Compilation; 800.02.00.01-Salaries for the years 1999-2000 and 2000-2001.

Yours faithfully,

B.P. JAIN
(B.P. JAIN)
DEPUTY DIRECTOR

No. A.11020/1/99-Ad.11

New Delhi, the

Copy forwarded to :-

1. Director of Census Operations, Assam.
2. JRG(1).
3. Consultant.
4. US(Ad.II)/DD(Ad.III)/US(Ad.IV).
5. Accounts Officer, RG's Office.
6. PS to RGI.
7. Order file.

B.P. JAIN
(B.P. JAIN)
DEPUTY DIRECTOR

13

"REGENSLIND"

No. 12011/4/2000-Ad.IV

भारत सरकार
GOVERNMENT OF INDIAगृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRHE MANTRALAYA
भारत के गृह रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIAनई दिल्ली, दिनांक 2/A, Mansingh Road,
New Delhi, the 14.02.2000

To,

All DCOs,

Subject : Filling up the post sanctioned for Census of India-2001.

Sir,

I am directed to say that a number of posts have been sanctioned for Census of India-2001. These posts are required to be filled in as early as possible. As you are aware all the Group 'C' posts sanctioned for the above Census and the vacancies caused in Group 'C' and 'D' categories due to promotion in higher grades are to be filled by DCOs and the posts coming under Group 'A' and 'B' are to be filled by this office. You are requested to ensure that the posts available for Census of India - 2001 in Group 'C' and 'D' are filled in only either by promotion or on deputation basis in accordance with the provisions of Recruitment Rules. Direct recruitment from open market is not to be made in any case for the above posts. A suggested model 'order' for promotions against above mentioned posts is enclosed, which may be used with suitable need based modifications.

If some of the officials appointed against Census of India - 2001 posts have to be regularised later, on availability of long-term vacancies due to retirement etc, separate orders for their regularisation must be issued.

So far as Group 'B' posts are concerned you are requested to send by 25th February '2000 the A.C.R. dossiers for last 5 years, vigilance clearance and seniority list of the feeder grades of each category of Group 'B' posts to enable us to process the cases for their promotions. Where eligible persons are not available for promotion against Group 'B' posts, action to fill up the post on deputation may be initiated by the directorate. Action taken in this regard be communicated to ORGI.

All posts, to be filled in by deputation may be advertised in leading newspapers and Employment News, through DAVP, in addition to circular to Govt. of India and State Govt. offices etc.

Yours faithfully,

(M. R. Singh)

Under Secretary to the Govt. of India

B. B. B. B.

(10)

92

1/8
(10)

IN THE GAUMATI HIGH COURT

(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM; TRIPURA; MIZORAM AND ARUNACHAL PRADESH)

CIVIL RULE NO. 2924/98.

Md. Abul Hussain & ors. Petitioners.
 -Vs-
 Union of India & ors. Respondents.

P R E S E N T

THE HON'BLE MR. JUSTICE DN CHOUDHURY.

THE HON'BLE MR. JUSTICE D BISWAS.

For the Petitioner : Mr. A.S. Choudhury,
 Mr. R. Mazumdar,
 Mr. I. Hussain,
 Mr. S. Seal, Advocates.

For the Respondents: C.G.S.C.

Date
 17.6.98

O r d e r

Heard Mr. A.S. Choudhury, the learned counsel for the petitioners. Also heard Mr. K.P. Sarma, the learned Addl. Central Govt. Standing Counsel, appearing on behalf of respondents 1-4.

Let a rule issue calling upon the respondents to show cause as to why a writ should not be issued as prayed for; and or why such further or other orders should not be passed as to this court may deem fit and proper.

Rule is made returnable by three weeks.
 Call for the records.

Mr. K.P. Sarma, the learned SCTC accepts notice on behalf of respondents 1-4. Petitioner shall take steps for service of notice on respondents No. 5 by registered post.

Pendency of the petition shall not be a bar on the respondents to absorb and/or appoint the petitioners subject to availability of posts.

2.

URGENT

Memo No. 16,337-41 /R.M. dt. 15-9-98

Copy forwarded for information and necessary action ^{and} to ~~be~~ transmit the above mentioned Record.

1. The Secretary to the Govt. of India, Ministry of Home, New Delhi.
2. The Registrar General of India, Census Operation, 2/A, Men Singh Road, New Delhi-11.
- ✓ 3. The Director of Census Operation, Assam, Ulubari, Guwahati-7.
4. The Assistant Director of Census Operation, Assam, Ulubari, Guwahati-7.
5. The Central Administrative Tribunal, Guwahati Bench, Bhongagarh, Guwahati-5.

By Order,

[Signature]
11/7/98
Asstt. Registrar(B).

A.Z.
26698

[Signature]
02/7/98

16

B. B. B.

ANNEXURE - IV

61

73

COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM, ARUNACHAL PRADESH)

MISC CASE NO. 747/99

IN CIVIL RULE NO. 2924 OF 1998

MD. ABUL HUSSAIN & ORS.

.....

Petitioners

- Vs. -

UNION OF INDIA & ORS.

.....

Respondents

P R E S E N T
THE HON'BLE THE CHIEF JUSTICE

&
THE HON'BLE MR JUSTICE PG AGARWAL

For the Petitioners

: Mr AS Choudhury, Mr P. Mazumdar, Mr I. Hussain,
Mrs S. Seal & Mr A. Maleque, Advs.

For the Respondents

: C. G. S. C.

Date of Order

: 02.07.99.

O R D E R

Heard Mrs S. Seal, learned counsel for the petitioners.

By means of this Misc. Case it is brought to the notice of the court by the petitioners that now some posts are available. Hence, the appellants may be considered for appointment.

Suffice to observe that in our earlier order dated 17.6.98 it was made clear that the pendency of the petition shall not be a bar for the respondents to appoint or absorb the petitioners subject to availability of posts. That being the position, in pursuance of the aforesaid earlier order it is open for the respondents to consider the case of the petitioners.

This Misc. Case is disposed of.

Sd/- PG AGARWAL,
Judge.

Sd/- RAJESH KUMAR,
Chief Justice.

Memo No. 998-1004 /RM Dated 29.8.2000

Copy forwarded for favour of information & necessary action to:-

1. The Secretary to the Govt. of India, Ministry of Home, New Delhi.
2. The Registrar General of India, Census Operation, 2/A, Man Singh Road, New Delhi-11.
3. The Director of Census Operation, Assam, Ulubari, Ghy-7.
4. The Assistant Director of Census Operation Assam, Ulubari, Ghy-7.
5. The Central Administrative Tribunal, Guwahati Bench, Bhangagarh, Ghy-5.

By Order,

Assistant Registrar(B)

8116.

12/9/21

.....

(1995) 3 Supreme Court Cases 401

(BEFORE S.C. AGRAWAL AND SUJATA V. MANOHAR, JJ.)

UNION OF INDIA AND OTHERS

Appellants;

Versus

DINESH KUMAR SAXENA AND OTHERS

Respondents.

Civil Appeals Nos. 731-69 of 1994[†] with Nos. 1556-73 and 6327 of 1994 and Nos. 3017, 3015-16, 3011, 3018, 3051 and 3049-50 of 1995, decided on February 24, 1995

A. Service Law — Regularisation — Absorption — Census Department — Employees appointed in short-term posts for a fixed period on a fixed pay for work of periodic nature which is available only at the time of each decennial census, retrenched on completion of the work and ending of the budgetary sanction — Claim of such retrenched to regularisation/absorption — Legality — Notwithstanding the length of their service (six years in this case) such retrenched, held, could not be directed by the court to be regularised in the Census Department or absorbed in any other department — However, the Census Department directed to consider them, after taking into consideration the length of their past service for relaxing age bar, for appointment in regular vacancies arising in future and meant for direct recruitment, provided they are otherwise qualified and eligible (Para 18)

Director, Institute of Management Development, U.P. v. Pushpa Srivastava, (1992) 4 SCC 33; 1992 SCC (L&S) 767; (1992) 21 ATC 377; *Sandeep Kumar v. State of U.P.*, 1993 Supp (1) SCC 525; 1993 SCC (L&S) 230; (1993) 22 ATC 667, followed

Daily Rated Casual Labour v. Union of India, (1985) 1 SCC 122; 1988 SCC (L&S) 128; (1987) 5 ATC 228; *Karnataka State Private College Stop-Gap Lecturers Assn. v. State of Karnataka*, (1992) 2 SCC 29; 1992 SCC (L&S) 394; (1992) 20 ATC 190; *Dharwad Distt. PWD Literate Daily Wage Employees Assn. v. State of Karnataka*, (1990) 2 SCC 396; 1990 SCC (L&S) 274; (1990) 12 ATC 902, distinguished

B. Service Law — Retrenchment — Retrenchment, after long period of service in short-term posts on completion of work and end of budgetary sanction — Relief

1. Ends of justice will be 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 and/or the Staff Selection Commission may 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. (Para 18)

Appeals partly allowed

H-M/14195/CLA

[†] From the Judgment and Order dated 26-2-1993 of the Central Administrative Tribunal, Lucknow Bench in O.As. Nos. 195 and 491 of 1991, 38 of 1993, 46 of 1991, 84 of 1993, 493 of 1991, 82 of 1973, 115, 208, 374, 304 and 375 of 1991, 45 of 1992, 494, 371, 420, 421, 422 of 1991, 49 and 60 of 1993, 471, 436, 434, 433, 435 of 1992, 57 of 1993, 351 and 88 of 1991, 77 and 22 of 1993, 676 of 1992, 31, 23, 27, 53, 61, 15, 62 and 64 of 1991

Advocates who appeared in this case :

Altaf Ahmed, Additional Solicitor General, N.N. Goswami and K.V. Sridhar
Advocates (I.C. Sharma, Hemant Sharma, W.S. Qadri, A.S. Parameswaran, L.P. Dhir, M.M. Kashyap, R.K. Bhat, P.S. Jha, Subhojit
Shakeel Ahmed Syed, R.C. Srivastava, Ms Rani Chhabra and E.C. Vidya
Advocates, with them) for the appearing parties.
Respondent in person.

The Judgment of the Court was delivered by

SUJATA V. MANOHAR, J.— Delay condoned.

2. Leave granted in all the special leave petitions.

3. Applications for intervention are allowed as the applicants in position similar to that of the respondents in these appeals. Some applications for intervention were made after the hearing of these appeals was over and the judgment was reserved. Normally, we would not have allowed such applications. But in view of the fact that the applicants in these applications are also similarly situated and would, in any case, be governed by the ratio of the judgment, we have allowed these applications in this special case.

4. A census is conducted in the country every 10 years under the Census Act of 1948, under the directions of the Registrar General and Census Commissioner of India. For the purpose of conducting the census, Directorates of Census Operations have been established in each State and Union Territory of India. The Directorates of Census Operations work under the Registrar General and Census Commissioner of India.

5. For carrying on the normal functions of the Directorate of Census Operations in the State in U.P. certain permanent posts have been sanctioned. At the time, however, of each decennial census, which is an exercise carried out on a gigantic scale every 10 years, a large number of extra temporary posts are required to be created for a short period. Some of these posts are created in connection with the manual tabulation and processing of data collected during the field operations. The extra work being limited in duration, these posts are created for a fixed period and carry a fixed pay. Once the specified period is over, these posts are abolished and the temporary staff appointed against these temporary posts is disengaged. The appointments to these temporary posts are only made for a fixed period and on the clear basis that these appointments are purely short-term. The incumbents would not be entitled to any regular appointment on the basis of such a fixed term appointment.

6. For the purposes of the census conducted in the year 1981, approximately 932 temporary Classes C and D posts were created in the Directorate of Census Operations, U.P. Temporary appointments were made to such Classes C and D posts. These posts included the posts of Clerks, Coders, Checkers and Supervisors. These posts were continued up to the year 1984 when all these appointments were terminated as the work connected with the 1981 census was over.

7. Some of the persons whose services were thus terminated filed a writ petition being Writ Petition No. 3235 of 1984 before the Lucknow Bench of the Allahabad High Court.

UNION OF INDIA
Allahabad High Court
The Allahabad High Court
The stand taken
employees working
an end on 30-6-1984
were appointed
sanction for
that the posts
However,
ordered
Department
emphatically

The Allahabad High Court challenging their termination and for other reliefs. The Allahabad High Court in its judgment and order dated 16-7-1984 noted the stand taken by the Union of India that the employment of these employees working in the Census Department was time-bound and came to an end on 30-6-1984. It also noted that the posts to which these employees were appointed had also stood abolished and there was no budgetary sanction for these posts beyond 30-6-1984. The High Court, therefore, held that the petitioners before it could not be granted the relief prayed for. However, in order to safeguard the interest of the retrenched employees, it ordered the respondents to make any fresh recruitment in the Census Department or for its allied work only from amongst the retrenched employees. This order was made in connection with the 900 and odd employees whose services had been dispensed with on 30-6-1984. A special leave petition against this order was dismissed.

8. Thereafter just before the 1991 census, an Association of these retrenched employees filed a Writ Petition No. 3748 of 1990 before the Lucknow Bench of the Allahabad High Court in which the High Court gave an interim order dated 18-12-1990 in which it gave a direction to the State Government to appoint these retrenched employees in the Census Department if they were found eligible and fit for the job.

9. In May 1991, Regional Tabulation Offices were opened for the 1991 census operations. In view of the above orders of the Allahabad High Court, such of the employees who were retrenched on 30-6-1984 and who applied and were eligible, were re-engaged on a fixed pay for a fixed period on contract basis in the Regional Tabulation Offices. The work of the Tabulation Offices was temporary in nature, being connected with the 1991 census. As a result, 465 retrenched employees were re-employed in the Regional Tabulation Offices. On completion of the work, the Regional Tabulation Offices were closed down on 31-12-1992. Thereupon the engagement of employees who were re-engaged in the Regional Tabulation Offices also came to an end. No budgetary sanction for the posts in Regional Tabulation Offices existed beyond 31-12-1992. However, Coding and Editing Cells were opened in March 1993 for the 1991 census operations. As per the above orders, the retrenched employees of 30-6-1984 and of 31-12-1992 were engaged on a fixed pay contract basis for this work. The Coding and Editing Cells were closed down on 28-2-1994 on completion of work. The budgetary sanction for Coding and Editing Cells also lapsed on 28-2-1994. Consequently, the employees who were engaged for the Coding and Editing Cells for the 1991 census operations were also retrenched on 28-2-1994. It is necessary to note that 465 posts were created in March 1993 for Coding and Editing Cells and these posts were filled entirely by the previously retrenched employees.

10. Some of the affected employees in the Census Department made an application being OA No. 1493 of 1992 before the Central Administrative Tribunal, Principal Bench, New Delhi for their re-employment/absorption/adjustment in the Census Department or in any other Government Department. The Tribunal, by its order dated 6-1-1993, directed the

respondents i.e. Union of India to consider continuing the applicants in their present posts in case the census work remains incomplete, in preference to outsiders. It was in the context of this order that when the Coding and Editing Cells were opened in March 1993, re-employment was given to 465 retrenched employees as set out above.

11. Around the same time, another application was filed by some ex-employees of the Census Department who were similarly situated being OA No. 385 of 1991 before the Lucknow Bench of the Central Administrative Tribunal. The Lucknow Bench of the Central Administrative Tribunal, by its order dated 26-2-1993, directed the respondents to frame a scheme for giving regular appointments to 900 and odd employees who had been temporarily appointed for the 1981 census, as and when vacancies arose and to consider their case for regularisation. The respondents were directed to frame a scheme within three months which would contain the appointment of 900 or remaining employees and their absorption and regularisation in the Census Department or in any other department. In the meanwhile, the posts were not to be filled by outsiders. It was further directed that these persons would be given 'priority' over the staff subsequently appointed. The Lucknow Bench of the Central Administrative Tribunal in another OA No. 491 of 1991 passed an order dated 12-3-1993 in which it once again directed the framing of a scheme for absorption of these retrenched employees of the Census Department in the Central or State Government Departments, giving them 'priority' over newcomers or subsequently appointed or other retrenched persons. Once again, the respondents were directed to frame a scheme within a period of three months. Being aggrieved by these two orders of the Lucknow Bench of the Central Administrative Tribunal, the Union of India has filed the present appeals before us.

12. It is urged on behalf of the respondents, who are the retrenched employees, that they have worked in the Census Department for six years and hence their appointments should be regularised. They have relied upon a decision of this Court in the case of *Daily Rated Casual Labour v. Union of India*¹. In this case, in the Posts and Telegraphs Department there were daily-rated casual employees who were working in that capacity for at least 10 years. It was found that they were doing the same work in the unskilled, semi-skilled or skilled category, as the case may be, as regular workers — though at much lower pay. This Court held that temporary employees or casual labourers should not be engaged in that capacity for long periods of time and that a scheme should be prepared on a rational basis for absorbing casual labourers who have been continuously working for more than one year in the Posts and Telegraphs Department.

13. Similarly, in the case of *Karnataka State Private College Stop-Gap Lecturers' Assn. v. State of Karnataka*² teachers who were appointed on a temporary basis on a fixed salary were continued with breaks for 8 to 10 years. But they were not considered for regular appointments on the ground

¹ (1973) 1 SCC 122; 1973 SCC (1) 45; 1973 (1973) 5 AIC 228
² (1992) 2 SCC 71; 1992 SCC (1) 45; 1992 (1992) 20 AIC 190

of such appointments being contrary to the reservation policy of the State. Having regard to these circumstances, this Court directed their regularisation and payment of emoluments to them on a par with the regular teachers.

14. In the case of *Dharwad Distt. PWD Literate Daily Wage Employees' Assn. v. State of Karnataka*³ daily-rated and monthly-rated employees were continued for long periods of time and were not given parity of pay with regular employees doing similar work. The Court directed regularisation of service of workers who had completed 10 years of service immediately; and for regularisation of the remaining workers in a phased manner.

15. In all these cases work of a permanent or semi-permanent nature existed in the Government Departments concerned which was got done through casual employees at lower or fixed salaries. The very fact that these casual employees had continuously worked in the department concerned for long periods like 8 to 10 years in each of the above cases showed that there was enough work available in the department on a permanent or long-term basis which, the Court held, should be done through regular employment and not through engaging casual workers. In these circumstances, this Court directed either regularisation of daily-rated workers or preparation of a scheme for the regularisation of these workers in the department concerned. In the present case, however, the additional work which is available is periodic in nature, available only at the end of each decennial when census operations are carried out. The additional work lasts for a period of about 2 or 3 years. Hence additional hands are required only for this periodical increase in work and while the work subsists. They are, therefore, engaged for a fixed period (during which the additional work exists) and they are paid a fixed salary. It is difficult to see how such employees can be regularised since there is no regular work available in the department for them.

16. This Court has not directed regularisation of employees if work is not available for them. Thus, in the case of *Director, Institute of Management Development, U.P. v. Pushpa Srivastava*⁴ the appointment of the respondent was purely contractual and on an ad hoc basis on a consolidated pay for a fixed period. The period of contract was extended for one year and thereafter the post was abolished. This Court held that looking to the nature of appointment, since the contractual period had expired, the respondent had no right to continue.

17. In the case of *Sandeep Kumar v. State of U.P.*⁵ daily-rated Junior Engineers were employed by the City Board, Ghaziabad in a temporary project known as the Slum Clearance Project. The project was financed partly by the State of Uttar Pradesh and partly by the World Bank funds. These Junior Engineers were employed on a daily-rated basis. This Court held that the scheme under which these petitioners were working was of a very specific nature. The work was not permanent in character. Since the project was for a particular purpose, it was not possible to direct that the

3 (1980) 2 SCC 326 : 1980 SCC (L.A.S.) 234 (1980) 12 AIC 902

4 (1992) 4 SCC 33 : 1992 SCC (L.A.S.) 767 (1992) 21 AIC 377

5 1993 Supp (1) SCC 525 : 1993 SCC (L.A.S.) 279 (1993) 23 AIC 607

petitioners may be regularised in service. The Court, however, the petitioners were entitled to regularisation of their services through the State Public Service Commission for vacancies on which they were employed. It directed that as and when such vacancies arise and are duly notified, the claim of the petitioners for such vacancies should be considered subject to their satisfying the qualifications prescribed therefor under the rules. This was observed that it was open to the State Public Service Commission to consider giving any weightage to the services rendered by the petitioners but the Court declined to give any direction in this regard. The Court said that continuity of service of the petitioners may be taken into account for overcoming the age bar.

13. The facts of the present case are closer to those of *Sandhu v. State of U.P.*⁵ than the other cases cited earlier. Here also the petitioners had been temporarily employed to handle work which was of a limited duration. It was not possible, therefore, to direct the framing of any scheme for being regularised in the Census Department since there was not a permanent nature to keep these extra employees busy. The Court also do not see how these employees, who had been engaged on a temporary basis for a limited and fixed duration and on a fixed pay, could be absorbed in any other department of the Government. Ends met if the Directorate of Census Operations, U.P. is directed to consider those respondents, who have worked temporarily in connection with the 1981 and/or 1991 census operations and who have been subsequently appointed for appointments in any regular vacancies which may arise in the Directorate of Census Operations and which can be filled by direct recruitment. Such employees are otherwise qualified and eligible for these posts. For the purpose of the length of temporary service of such employees in connection with the 1981 and/or 1991 census operations should be considered for relaxing the conditions for such appointment. Suitable rules may be made and conditions may be framed in this connection by the appellants. The appellants and/or the Commission may also consider giving weightage to the services rendered by such employees in the Census Department and their record in the Census Department for the purpose of their appointment to regular posts. It is directed accordingly. The appellants have, in their submissions, pointed out that as of now, 117 posts are vacant and 117 recruits can be appointed. They have also submitted that out of these, there were 88 vacant posts of Data Entry Operator, Grade B, which were advertised for being filled up only from amongst the retired employees of 1984 and 1991. As per recruitment rules, only those retired employees are eligible to apply who were graduates and had a speed of 100 characters per hour of data entry. Although approximately 1000 were applied, only 476 appeared in the test conducted by the NIC Unit and only two applicants qualified. Out of these, only one was appointed, since the other person was over-aged even after a relaxation. Whatever may be the difficulties in giving regularisation to such retrenched employees in the past, the appellants, now

ADVAITA NAND v. JUDGE, SMALL CAUSE COURT

407

of India and the Directorate of Census Operations, U.P. are directed to consider these retrenched employees for direct recruitment to regular posts in the Directorate of Census Operations, U.P. in the manner hereinabove stated. The retrenched employees will, however, have a right to be considered only if they fulfil all other norms laid down in connection with the posts in question under the recruitment rules and/or in other departmental regulations/circulars in that behalf.

19. The appeals are accordingly partly allowed. In the circumstances of the case, however, there will be no order as to costs.

(1995) 3 Supreme Court Cases 407

(BEFORE S.C. AGRAWAL AND SUTAIYA V. MAROCHAR, JJ.)

ADVAITA NAND

Appellant;

Versus

JUDGE, SMALL CAUSE COURT, MEERUT
AND OTHERS

Respondents.

Civil Appeal No. 4166 of 1995*, decided on April 4, 1995

Rent Control and Eviction -- Arrears of rent -- Deposit of, in court "at the first hearing of the suit" -- Date of first hearing is the date on which court proposes to apply its mind to the points in controversy between the parties and to frame issues and not the date fixed for filing of written statement -- Order issued by court on 28-3-1990 directing filing of written statement within one month and fixing 24-7-1990 as the date of final hearing -- Entire amount of rent due deposited by tenant-appellant on 2-5-1990 -- Held, date of "first hearing" being 24-7-1990 and rent arrears having been deposited prior to that date, appellant entitled to protection under S. 20(4) U.P. Rent Act -- U.P. Urban Buildings (Regulation of Letting, Rent and Eviction) Act, 1972 (13 of 1972), S. 20(4) Expln. (a) -- Words and phrases -- "First hearing"

Held:

Even after the insertion of the Explanation the expression "first hearing of the suit" in Section 20(4) means the date on which the court proposes to apply its mind to determine the points in controversy between the parties to the suit and to frame issues, if necessary. This has been held by the Supreme Court in *Siraj Ahmed Siddiqui* case after giving due consideration to the Explanation to Section 20(4) which explained the expression "first hearing". *Siraj Ahmed Siddiqui* cannot be distinguished on the ground that in that case the Court was dealing with an ordinary civil suit governed by the provisions of the Code of Civil Procedure requiring framing of issues whereas in the present case the suit was filed before the Judge, Small Cause Court and issues are not required to be framed for the trial of such a suit. This difference in procedure is of no consequence. Even though issues are not required to be framed and a date is fixed for the purpose of final hearing of the suit filed before the Small Cause Court but for the purpose of such suit also, first hearing of the suit would mean the date on which the Court proposes to apply its mind i.e. the date fixed for final hearing of the suit and it cannot be the date fixed

* From the Judgment and Order dated 17.11.1994 of the Division Bench in C.M.C. WP No. 20672 of 1994

NO.DCO(E)34/98/5456-58

GOVERNMENT OF ASSAM
 MINISTRY OF
 PUBLIC RELATIONS
 AND
 INFORMATION
 DISSEMINATION
 UNIT
 GUWAHATI

the 5th May/2000

OFFICE MEMORANDUM

Reference to his representation/Application dated 3.5.2000 submitted to the Director of Census Operations, Assam, Guwahati praying for appointment against the posts sanctioned in connection with the 2001 Census.

He is hereby informed that the Registrar General, India New Delhi has sanctioned a few purely temporary posts to this directorate for attending the additional work for 2001 Census works upto 28.02.2001 only with a direction/instruction either to fill up the posts by promotion or by transfer on deputation from Central/State Govt. offices only.

Therefore, his prayer for appointment against the purely ad-hoc temporary posts cannot be considered in view of the facts stated above.

However he is advised to apply against any regular vacancy through the recruiting agency (S.B.C. as the case may be) as and when notified by this directorate for direct recruitment suiting his qualifications and other norms as laid down in the Recruitment Rules/Departmental regulations/Circular etc.

(M. R. DAS)
 DIRECTOR OF CENSUS OPERATIONS
 ASSAM : GUWAHATI.

To

Shri Abul Hussain, Ex-D/man.
 Rabin Kalita, Ex-D/man.
 Nripendra Das, Ex-D/man.