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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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SECTION OFFICER (Judl.)

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 89/2000

OF 199

Applicant(s) Smt. Usham Kamila Devi.

Respondent(s) Union of India and oes.

Advocate for Applicant(s) Mr. B.K. Sharma.

Mr. S. Sarma.

Advocate for Respondent(s) Mr. U.K. Nair.

C.G. Se.

Notes of the Registry	Date	Order of the Tribunal
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2.3.2000

Application is admitted. Mr B.S. Basumatary, learned Addl.C.G.S.C receives notice. No formal notice need be sent.

Mr List on 3.4.2000 for written statement and further orders.

Mr S.Sarma, learned counsel for the applicant prays for an interim order. Mr Basumatary submits that he has no instruction. Issue notice to show cause as to why the interim order shall not be granted.

List on 15.3.2000 for interim order. Meanwhile, if the applicant has not been actually relieved from service, as on today her services shall not be disturbed.

Member(J)

Member(A)

4562 SL
20.2.2000

19/1/00

1/3/2000

1/3/2000

6-3-2000

Service of notices prepared and sent to D. Section for issuing of the same to the respondents through Regd. post with A.D. vide D.Nos.

681 to 683 Dtd.

6-3-2000

pg

1/3/2000

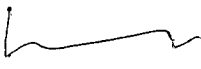

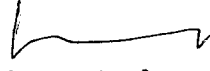
Notes of the Registry	Date	Order of the Tribunal
<p>14-3-00</p> <p>1) Senior Reports are awaited.</p> <p>2) W/Student is not from BSW.</p> <p>14/3</p> <p>14-3-2000</p> <p>Written Statement has been filed by the respondents.</p>	<p>15.3.00</p>	<p>Reply to the show cause has been submitted by the respondents. Perused the show cause reply and heard learned counsel for both sides.</p> <p>The applicant was a Census employee working as Assistant Compiler in the office of the Director of Census Operation, Manipur. She was retrenched from service. She submitted O.A. No. 182 of 1999. Pursuant to our order dated 4.10.99 in the O.A. the applicant was appointed as Assistant Compiler on ad hoc basis by order dated 3.1.2000, Annexure-11. However, her service was terminated by order dated 25.2.2000, Annexure-14. This order is impugned in the present O.A. No. 89 of 2000. The operation of the impugned order dated 25.2.2000 had already taken effect before the applicant approached the Tribunal by filing this present O.A. on 2.3.2000. In the circumstances we are of the view that no interim order for keeping abeyance of the impugned order dated 25.2.2000 can be granted. However, we direct the respondents that if there is any vacancy suitable for the applicant she shall be considered for appointment immediately in preference to outsiders. The applicant may approach the authority to consider her case.</p>

Notes of the Registry	Date	Order of the Tribunal
<p>Copy of The order Dtd - 15.3.2000 issued to the counsel of the parties.</p> <p><u>24</u> 24-3-2000</p>	<p>15.3.00</p> <p>trd</p> <p>16/3/2000</p>	<p>List for written statement on 3.4.2000. Endeavour shall be made to dispose of the matter early.</p> <p><u>JB</u> Member(J)</p> <p><u>ba</u> Member(A)</p>
	<p>3.4.2000</p> <p>trd</p>	<p>On the prayer of Mr. B.S. Basumatary, learned Addl. C.G.S.C. two weeks further is allowed for filing of written statement.</p> <p>List on 25.4.2000 for written statement and further orders.</p> <p><u>ba</u> Member</p>
<p>15-5-00</p> <p>no C/S has been filed.</p>	<p>25.4.2000</p> <p>trd</p> <p>pg</p>	<p>Two weeks time allowed for filing of written statement on the prayer of Mr B.S.Basumatary, learned Addl. C.G.S.C.</p> <p>List on 16.5.2000 for order.</p> <p><u>ba</u> Member</p>
<p>Show cause has been filed.</p> <p><u>24</u></p>	<p>16.5.0</p> <p>trd</p>	<p>Mr. S.Sarma, learned counsel for the applicant. Mr. B.S.Basumatary, learned Addl. C.G.S.C. prays time to file written statement. Prayer allowed.</p> <p>List on 20.6.2000. Interim order shall continue.</p> <p><u>JB</u> Member(J)</p>
	<p>20.6.00</p>	<p>There is no Bench today. Adjourn to 11-7-00.</p> <p><u>1320</u> 13</p>

Notes of the Registry	Date	Order of the Tribunal
	11.7.00	<p>Present: Hon'ble Mr S. Biswas, Administrative Member</p> <p>None for the applicant. Mr B.S. Basumatary, learned Addl. C.G.S.C. submits that a short reply was filed as a reply to the show cause notice and further time may be given for filing complete ^{counter} affidavit. Accordingly the case is adjourned and posted on 11.8.00 for written statement.</p> <p style="text-align: right;">S. Biswas Member(A)</p>
<p>19-9-2000</p> <p>1) Show Cause has been filed.</p> <p>2) No. 103 has been filed.</p>	<p>nkm</p> <p>11.8.00</p>	<p>Then 5 no more adjd at 20.9.00. 1870</p>
<p>24-10-2000</p> <p>1) Show Cause has been filed.</p> <p>2) No. 103 has been filed.</p> <p>By</p>	<p>20.9.00</p> <p>pg</p>	<p>Present.: The Hon'ble Mr Justice D.N. Bhaskar Choudhury, Vice-Chairman.</p> <p>Two weeks time allowed for filing of written statement on the prayer of Mr B.S. Basumatary, learned Addl. C.G.S.C. List on 25.10.2000 for written statement and further orders.</p> <p style="text-align: right;">Vice-Chairman</p>
<p>Written Statement has been filed on behalf of Respondents 1 to 3 at page 41-49.</p> <p>24/10/2000</p> <p>Show Cause and 103 has been filed.</p> <p>By 8.12.2000.</p>	<p>25.10.00</p> <p>pg</p>	<p>Heard Mr S. Sarma, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C for the respondents.</p> <p>Written statement has been filed. The applicant seeks two weeks time to file rejoinder. Prayer allowed.</p> <p>List on 9.11.2000 for order.</p> <p style="text-align: right;">Vice-Chairman</p>

O.A. 89/2000

(5)

Notes of the Registry	Date	Order of the Tribunal
The case is ready for hearing.	9.11.00	<p>Written statement has been filed. The case is ready for hearing. List on 1.3.2001 for hearing.</p> <p> Vice-Chairman</p>
<p>By 28.2.01</p>	<p>pg 1 1.3.</p>	<p>Adjourned to 30.4.2001 M/A A.K. Jha 1.3.</p>
<p><u>2.3.2001</u></p>	30.6.01	<p>On the prayer of learned counsel for the parties case is adjourned to 4.5.01 for hearing.</p>
<p>Rejoinder to the w/s has been filed by the applicant.</p>	<p> Member</p>	<p> Vice-Chairman</p>
<p>The case is ready for hearing and list to be made sitting at Mannipal.</p>	<p>in 4.5.</p>	<p>Left over, left on 24/5/2001. M/A A.K. Jha 4.5.</p>
<p><u>28.6.2001</u></p>		
<p>Copy of the order has been sent to the d/ce. for issuing the order to the applicant well as to the Govt. Adv. for the Respdy of</p>		

Notes of the Registry

Date

Order of the Tribunal

X

CENTRAL ADMINISTRATIVE TRIBUNAL? GUWAHATI BENCH(AT IMPHAL)

Original Application No. 89 of 2000.

Date of Order : This the 28th Day of May, 2001.

The Hon'ble Mr Justice A. Agarwal, Chairman.

The Hon'ble Mr K.K.Sharma, Administrative Member.

Smt. Usham Kamila Devi,
Daughter of Late Usham Rupchandra,
Vill. Awang Sekmet, Manipur,
Dist. Imphal.

. . . Applicant.

By Advocate Sri S.Sarma.

- Versus -

1. Union of India,
represented by the Secretary
to the Govt. of India,
Ministry of Home Affairs,
New Delhi.
2. The Registrar General of India,
2 A Mansingh Road, New Delhi-110011.
3. The Director of Census Operation,
Manipur, represented by the
Deputy Director, Census Operation,
Manipur.

. . . Respondents

By Advocate Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

K.K.SHARMA, ADMN.MEMBER,

By this application under Section 19 of the Administrative Tribunals Act 1985, the applicant has challenged the impugned order dated 25.2.2000 by which the services of the applicant were terminated with immediate effect.

2. The applicant was appointed by the respondents for the first time in the year 1990 against a temporary post. With artificial break, the applicant continued upto 31.12.1993 when her services were terminated. Against that order the applicant filed O.A.No.182 of 1999 before this Tribunal. The Tribunal by its order dated 4.10.1999 disposed of the same directing the respondents to regularise the service of the applicant. By order dated 3.1.2000 the applicant was appointed

K. K. Sharma

contd..2

to the post of Assistant Compiler, but her service had been terminated with effect from 25.2.2000. The applicant has challenged the aforementioned order on the ground that on the basis of a judgment passed by Supreme Court in the case of Government of Tamilnadu and another vs. G.Md. Ammenudeen, reported in (1999) 7 SCC 499 the Tamilnadu Government had been directed to prepare a scheme for regularisation of the retrenched census employees. He has also referred to the cases of two census employees, namely, Smt. Ng. Makan and Abdul Rasheed Khan, whose services have been regularised by orders dated 23.12.98 and 8.10.99. Basing his submissions on the aforementioned Apex Court decision directing the respondents to regularise the services of the retrenched census department employees and the decisions rendered by this Tribunal in O.A.31/99 and O.A. 60/94, Mr Sarma submitted that this case may also be disposed of with a similar direction.

3. We have heard Mr S.Sarma, learned counsel appearing on behalf of the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents at length. Mr A.Deb Roy, learned Sr.C.G.S.C supporting the written statement submitted that the aforesaid Supreme Court decision referred to only the termination of the services of the employees of the census department of Tamilnadu and that the same has no bearing in other States. He has also referred to letter No. 12011/4/2000-Ad.IV dated 14.2.2000 of the Registrar General of India whereby directions have been given to fill up the posts of Group C and D only either by promotion or on deputation basis for the 2001 census operations. Mr Deb Roy submitted that the recruitment from open market is totally prohibited and therefore the services of the applicant cannot be regularised.

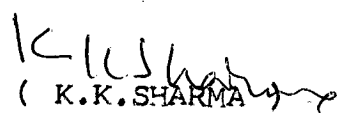
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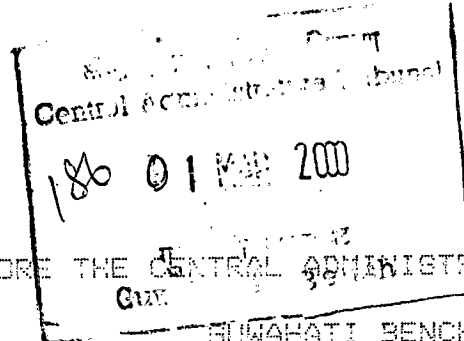
4. Mr Sarma, learned counsel for the applicant has referred to the decisions of this Tribunal in O.A.263/99 and O.A.82/2000, whereby relief has been granted to the applicants and directions have been given to the respondents to consider the case of the retrenched census employees against future vacancies.

5. We have given our anxious consideration to the submission of the counsel for the parties. We are of the view that the applicant, having served in the department from 1990 and thereafter on the basis of her filing an O.A. before this Tribunal deserves to be considered in case of any vacancy arising in the department. We accordingly direct the respondents that in case of any regular vacancy occurring in the department, the case of the applicant shall be considered in preference to the employment through open market, subject to her otherwise qualifying.

6. The application is accordingly disposed of. The respondents will pay the applicant cost quantified at Rs. 1000/-.


(K.K. SHARMA)
ADMINISTRATIVE MEMBER


(A. AGARWAL)
CHAIRMAN



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
Guwahati Bench

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

Original Application No. 89/2000

Smt. Usham Kamila Devi

VS.

U.D.I. & ORS.

I N D E X.

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Filed by. S.Sarma. Advocate.

Registration No.

File No. C:\WS7\USHAM.

Date.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

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

Original Application No. 89 2000.

BETWEEN

Smt. Usham Kamila Devi,

D/O Late Usham Rupchandra,

Vill, Awang Sekmet, Manipur.

Dist, Imphal.

.....Applicant.

AND

1. Union of India, represented by
the Secretary to the Govt. of India,
Ministry of Home, New Delhi.
2. The Registrar General of India,
2A Manshing Road, New Delhi -110011.
3. The Director of Census Operation, Manipur.
represented by the Dy. Director, Census Operation.
.....Respondents

DETAILS OF THE APPLICATION

1. Particulars of the orders against which the Application is made.

This application is directed against the order dated 25.2.2000 issued by the Director of Census Operation, Ministry of Home Affairs, terminating the service of the applicant from the post of Asstt. Compiler.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the instant case is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation:

The applicant further declares that the application is filed

Usham

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Filed by
S. K. S. S. S.
Admission
1.3.2000

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within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case:

4.1. That the applicant is a citizen of India and a permanent resident of Manipur and as such he is entitled to all the rights and protections as guaranteed by the Constitution of India and laws framed thereunder. The applicant belongs to the Scheduled caste community and hence she is entitled for the special privileges as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicant was appointed as Assistant Compiler in the year 1990 under the Census Operation Office of the Director Census Operation, Manipur Imphal. She was appointed to the said post of Asstt. Compiler pursuant to a DPC and after following the due processes of recruitment. To that effect the respondent No 3 issued an order vide order No A 12021/3/39-Applt. dated 27.12.90. Thereafter her service was terminated w.e.f. 31.12.93. It is pertinent to mention here that thereafter pursuant to a order passed on O.A. No.182/99 by the Hon'ble Tribunal she was again appointed to the post of Asstt. Compiler vide order dated 3.1.2000 on adhoc basis for six months, However, her such service was again terminated by an order dated 25.2.2000. All her earlier representations for absorption giving relaxation and taking into account her past service have fallen into deaf ears of the respondents. It is under these circumstances, the applicant has come under the protective hands of this Hon'ble Tribunal with a prayer to consider her case against the vacant post for (SC) due to promotion given to one Sri I Jugin Singh to the post of Statistical Asstt.

4.3. That the applicant was first appointed to the post of

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Asstt. Compiler w,e,f, 27.12.90 for a period of three months for the purpose of 1991 census operation. The said appointment was made pursuant to a DPC held for that purpose and she was asked to appear before the interview/selection Committee. Thereafter her service was extended by orders dated 26.3.1991 and 12.9.91 issued by the respondent No 3 and as such she was continuing in the said post till 31.12.93.

Copies of the orders dated 27.12.90; 26.3.91; 12.9.91 and certificate of discharge dated 21.1.94 are annexed herewith and marked as ANNEXURE-1,2,3,& 4 respectively.

4.4. That the applicant has got all the required qualification to be appointed as Asstt. Compiler. She passed the Three Years Degree Course (TDC) in the year 1990 with Economics as core subject.

A copy of the certificate dated 10.5.91 is annexed herewith and marked as ANNEXURE-5.

4.5. That the service of the illegally terminated by an order dated 21.12.93 w,e,f, 31.12.93 vide order No. 12..21/4/93-Appnt issued by the respondent No 3.

A copy of the order dated 31.12.93 is annexed herewith and marked as ANNEXURE-6.

4.6. That the applicant after her such termination had also worked in the office of the respondent No 3 for some specified period with breaks. Thus the applicant has got all the required qualification to hold the post of Asstt. Compiler.

4.7. That the applicant begs to state that two similarly situated persons like that of the applicant viz. Shri A.S. Stephen and N.S.Makan who were also appointed as Asstt. Compiler has

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approached this Hon'ble Tribunal by way of filing O.A. Nos 24/94 and 60/94 making a grievance against the termination order dated 31.12.93 (Annexure-6) of their services. This Hon'ble Tribunal protected their interests by way of passing interim order, more particularly the one dated 20.5.94 on the strength of which the applicants were allowed to continue as Asstt. Compiler on ad-hoc basis. Eventually the applicant in O.A. No 24/94 has withdrawn the case and the applicant in O.A. No 60/94 succeeded in the case. The said O.A. was disposed of by an order dated 26.8.98 directing the respondents to consider her case for regularisation pursuant to which her service has been regularised by an order dated 23.12.98.

The applicant craves leave of the Hon'ble Tribunal to produce the copies of the interim order dated 20.5.94; Judgment dated 26.8.98 and order of regularisation dated 23.12.98.

It is pertinent to mention here that this Hon'ble had also occasions to deal with similar matters (O.A. No 82 of 1999) which was also disposed of in favour of the applicant vide order dated 30.3.99. The applicant craves leave of this Hon'ble Tribunal to produce the said order dated 30.3.99 at the time of hearing of the case.

4.8. That the applicant hailes from a very poor family and she belongs to the SC Community. The entire family members are totally dependent on her megar income. Her financial condition did not permit her to approach this Hon'ble Tribunal at the earliest opportunity when her service was terminated w,e,f, 31.12.93.

4.9. That the Govt. of India has formulated a scheme for absorption and regularisation of the retrenched census employees

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and the applicant craves leave of this Hon'ble Tribunal to produce the same at the time of hearing of the case. The Hon'ble Apex Court has also stressed the need for absorption of the retrenched census employees on preferential basis by way of relaxing the recruitment rules, and accordingly the applicant being a retrenched census employee is also entitled to the said benefits mentioned in the scheme and the in the Judgment of the Hon'ble Apex Court. It is pertinent to mention here that the respondent No 2 has issued an letter dated 26.12.1991 by which emphasis has been made for regularisation of the services of the census employees who were recruited against the 1991 census operation. Again the respondents No 3 has issued another letter by which similar nature of assurances have been made for regularisation of the services of the applicants by granting concession to them.

Copies of the order dated 26.12.91 and 4.2.94
are annexed herewith and marked as ANNEXURE-7 & 8.

4.10. That the applicant submitted numbers of representation to the respondents for consideration of her case but same are yet to yield any result. It is pertinent to mention here that at present one post of Asstt. Compiler is lying vacant under the respondent No 3 due to the promotion granted to one Sri I Jugin Singh (SC) to the post of Statistical Asstt. The said vacant post is a reserved post for SC candidate and the applicant could come to know that at present there is no SC candidate (departmental) for the said post. It is also learnt from the reliable sources that within a very short time the said post will be allotted to some outsiders without first considering the case of the applicant.

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A copy of the one of the representations filed by the applicant is annexed herewith and marked as ANNEXURE-9.

4.11. That under the said circumstances the applicant had to approached the Hon'ble Tribunal by filing O.A.No.182/99. It will be pertinent to mention here that the other retrenched census employees like that of the applicant of Manipur Division had also approached the Hon'ble Tribunal by ways of filing various misc.application. In this connection mention may be made of O.A. No.60/94 and 31/99. Similar such O.A.s were also filed by the retrenched census employees of Assam. All these O.A.s have since been disposed of with a direction to consider the case of the applicants therein. Likewise the O.A. filed by the applicant was also disposed of by the Hon'ble Tribunal.

A copy of the order passed in O.A.No.182/99 is annexed as Annexure-10.

4.12. That in pursuance of the order passed by the Hon'ble Tribunal, the applicant made a representation dated 13.12.99. Thereafter the Director, Census Operation, Manipur, by an order vide No.C.18013/1/99-IX (UKD) dated 3.1.2000 was pleased to appoint the applicant against a resultant vacancy. However, the said appointment of the applicant was stated to be on adhoc basis for a period of six months.

A copy of the order dated 3.1.2000 is annexed herewith and marked as Annexure-11.

4.13. That unlike the applicant, other persons who had approached the Hon'ble Tribunal, as stated above, and whose cases were also disposed of likewise, were regularised immediately whereas they also belong to the same cadre i.e. Asstt. Compiler.

In the above context office order dated 23.12.98 and 8.10.99 is annexed herewith and marked as Annexure-12 and 13

respectively.

4.14. That the applicant states that while she was continuing in her service, she came across an office order vide No.C.18013/1/99-IX (UKD) dated 25.2.2000 by which her service is sought to be terminated. The order has been passed as per the direction of the Registrar General of India on the purported ground the post is required to be filled in by Staff Selection Commission. It is also revealed in the order that there is a direction to send requisition for the said vacant post to Staff Selection Commission.

A copy of the order dated 25.2.2000 is annexed herewith and marked as Annexure-14.

4.15. That immediately having come to know about the said order dated 25.2.2000, the applicant has come down to Guwahati all the way from Manipur seeking urgent and immediate relief from the Hon'ble Tribunal. The impugned order dated 25.2.2000 has not been given effect to and the applicant has not handed over the charges to anyone. No one else has taken over charge from the applicant. Hence, it is a fit case for passing an interim order.

4.15. That the applicant begs to state that the post of Asstt Compiler does not come under the purview of Staff Selection Commission and the applicant is entitled to get preference in the matter of regularisation of her service as has been done in other cases without routing their cases through Staff Selection Commission. The respondents can not resort to task of regularisation on pick and chose basis to their likings. Various schemes have been formulated by the Govt. of India and in term of the law laid down by the Hon'ble Apex Court, the service of the applicant is required to be regularised without requiring her to appear before the Staff Selection Commission for such regularisation as has

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been done in other cases pertaining to Manipur. To the best of knowledge of the applicant the service of the retrenched employees of Assam have been regularised departmentally without processing their cases through Staff Selection Commission. An exemption has been made only in case of the applicant.

4.15. That the applicant states that in terms of the impugned order dated 25.2.2000, the post being held by the applicant is to be filled through Staff Selection Commission and even this proposition is held to be legally valid, then also there is not earthly reason as why the service of the applicant has been terminated as she can very well be continued till the post is filled up through Staff Selection Commission and/ or her case is considered for regularisation.

4.17. That the applicant states that the violation of equality clause writ large on the face of it and instead of appointing the applicant on adhoc basis by the order dated 3.1.2000, she should have been regularly appointed as was done in case of others. There can not be two methods of appointment for same post for some set of employees. Even otherwise also the reasons assigned in the impugned order can hardly be a reason for terminating the service of the applicant even before expiry of 6 months and that too without issuing any notice and affording any reasonable opportunity to the applicant being heard.

4.18. That the applicant begs to state the action of the respondents in not considering the case of the applicant is illegal arbitrary and the entire action is based on certain malafide intention. The applicant further begs to state that her case is required to be considered taking in to consideration of the aforesaid letters dated 26.12.91 Annexure-7 and 4.2.94 Annexure-8. On the other hand some of the similarly situated employees like that of the applicants have already been regularised

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by the respondents ignoring the case of the applicant.

4.19. That the applicant begs to state that the respondents ought to have considered the case of the applicant at the time of issuing the order of appointment of Smt. Ng Makan, a similarly situated employees like that of the applicant. It is pertinent to mention here that by the order dated 31.12.93 the services of the applicant along said Smt. Ng Makan was terminated and the Hon'ble Tribunal while deciding the case of Smt Ng. Makan D.A. No 60/94 have also gave verdict that the said order is illegal and hence the same order now respondents can not sustain in the eye of law and hence same is liable to be set aside and quashed and the service of the applicant is required to be regularised. The applicant when visited the office of the respondents for consideration of her case, the respondents have expressed their helplessness to do so in absence of any order from the Hon'ble Tribunal.

4.20. That the applicant begs to state that one more post of Asstt. Compiler is still lying vacant under the respondents due to the promotion of one Sri I Jogen Singh to the post of Statical Asstt. under the respondent No 3. The said order of promotion was issued by the Dy. Director vide his letter No 12021/4/93-Apptt. dated 28.1.97.

The applicant craves leave of this Hon'ble Tribunal to produce the same at the time of hearing of the case.

4.21. That the applicant begs to state that the as stated earlier that there is a vacancy occurred due to the promotion of said Sri I Jogen Singh and the said post is reserved for the SC candidate. The respondent can very well accommodate the applicant on ad hoc basis till the finalisation of the case. It is further stated that the applicant being a qualified person to hold the

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← said post of Asstt Compiler and in fact her case is required to be considered as per the aforesaid orders mentioned in the Annexure-8 and 9 orders granting concession. The applicant further submits that it is a fit case for granting an interim order directing the respondents to appoint the applicant to the said post at least on ad hoc basis till finalisation of the case.

5. Grounds for relief with legal provisions

5.1. For that the action of the respondents in not considering the case of the applicant for the post of Asstt, Compiler and granting the same to the juniors of the applicants is illegal, arbitrary and violative of the principles of natural justice and administrative fair play.

5.2. For that the applicant having come through a rigorous process of selection, her service cannot be terminated in the manner as has been done in the case by issuing the impugned order dated 25.2.2000 and that too without giving any notice to her.

5.3. For that the requisition placed by the respondents to the employment exchange, there is whisper that the post was a temporary one or the said appointment will be made on ad-hoc basis. Accordingly, the applicant appeared in the said selection believing the same as a regular selection and now the respondents can not resile back from their promise made out to the applicant.

5.4. For that the applicant having been treated as regular employee for all practical purpose, she can not be subjected to such a termination as has been done in the instant case by issuing the Annexure-14 order dated 25.2.2000.

5.5. For that the similarly situated employees like that of the applicants having been continued till date and subsequently

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regularised in the respective services, there is no earthly reason as to why the case of the applicant can not be considered for regular absorption.

5.6. For that the action of the respondents being violative of Article 14 and 16 of the Constitution of India, same is not sustainable in the eye of law.

5.7. For that there being various schemes as well as office orders for regularisation of the employees like that of the applicant, there is no earthly reason as to why the case of the applicant shall not be considered under the same set of rules.

5.8. For that the applicant having been granted with all the service benefit like that of the regular employee, her service can not be terminated in the manner as has been done in the instant case.

5.9. For that the respondents ought to have considered the case of the applicant along with other similarly situated employees like that of applicants more so when the Hon'ble Tribunal granted the relief to one Smt. Ng Mekan whose service is also terminated by the same order dated 31.12.93.

5.10. For that there being an additional vacancy particularly meant for SC candidate the respondent ought to have considered the case of the applicant who is also an SC candidate.

5.12. For that since the post of Asstt. Compiler does not come under the purview of Staff Selection Commission, hence the action of the respondents in issuing the order dated 25.2.2000 is not sustainable and liable to be set aside and quashed.

5.13. For that the respondents by issuing the impugned Annexure-14 order dated 25.2.2000 has violated the Art 14 and 16 of the Constitution of India and hence the same is not sustainable

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in the eye of law.

5.14. For that in any view of the matter the action of the respondents are not sustainable in the eye of law and hence the same is liable to be set aside and quashed.

The applicant craves leave of the Hon'ble Tribunal to advance more grounds at the time of hearing of the Original Application.

6. Details of remedies exhausted:

The applicant declares that he has exhausted all the departmental remedies and there is no other alternative remedy open to the applicant except by way of filing this application.

7. Matters not previously filed or pending before any other Court:

The applicant further declares that he has not filed any application, writ petition or suit before any other court, authority and/or any other Bench of Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Relief sought:

Under the facts and circumstances of the case the applicant prays that this application be admitted and notice be issued to the respondents to show cause as to why the relief sought for in this application shall not be granted, call for the records and after hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

8.1. To set aside and quash the impugned Annexure 14. order dated 25.2.2000.

8.2. To direct the respondents to give regular appointment to the applicant in the vacant post of Asstt Compiler and to that extent modify the order dated 2.1.2000 (Annexure-11) and / or to

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give her regular appointment in any group-C posts.

8.3 Costs of the application.

8.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and as may be deemed fit and proper.

9. Interim order prayed for:

Pending disposal of this application it is most respectfully prayed that the impugned order dated 25.2.2000 (Annexure-14) be suspended directing the respondents to allow the applicant to continue in her post of Asstt. Compiler.

10.

This application has been filed through advocate.

11. Particulars of the IPO

1. IPO No.	:	OG 456252
2. Date of Issue	:	20.2.2000
3. Issued from	:	G.P.O., Guwahati
4. Payable at	:	G.P.O., Guwahati

12. List of enclosures

As stated in the INDEX.

-14-
2

VERIFICATION

I, Smt Usham Kamila Devi., d/o Usham Rupachandra, aged about 34, years at present working as Head Goods Clerk in the New Guwahati B.G. Goods Office, do hereby solemnly affirm and verify that the statements made in the paragraphs 2-3, 41, 42, 44, 45, 43, 48, 415-421 & 51012 are true to my knowledge and those made in paragraphs 1, 43, 46, 49, 414 are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 29th day of Feb, 2000.

SIGNATURE

Usham Kamila Devi

No. A.12021/3/89-Apptt.
Government of India
Ministry of Home Affairs
Office of the Director of Census Operations,
Manipur.

ORDER
Imphal, 27th Dec. '90.

On the recommendation of the DPC in its meeting held on 26th and 27th November and its approval and further in exercise of the power conferred on the undersigned under Rule 77 of the General Financial Rules 1963, Kr. Usham Kamila Devi Awang Sekmai, Manipur is appointed as Assistant Compiler in ~~Kanikar~~ the scale of pay @ Rs.950-20-1150-EB-25-1500/- p.m. against the post of S.A. vacated by Shri Ng. Imo Singh, on a purely temporary basis from the date of her joining the service upto ~~28.2.91 or whichever~~ until further orders whichever is earlier.

(A. R. Khan)
Director.

No. A.12021/3/89-Apptt.

Imphal, the 27th December, 1990.

Copy to:

1. Kr. Usham Kamila Devi,
Awang Sekmai, Manipur.
 2. the Assistant(A/C) with a spare copy.
 3. Personal file.
 4. The Accounts Officer o/o the P.A.O.(Census)
Ministry of Home Affairs.
 5. AGCWM-Building, New-Delhi-110001.
- File No. 12011/1/89-MO(91).

(A. R. Khan)
Director.

No. A.12011/1/89-RTO(91)
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS,
MANIPUR.

Haffiz Hatta Minuthong
the 26th March '1991.

OFFICE ORDERS

The following persons are hereby appointed as Computer in the scale of pay @ Rs. 1200-30-1560-EB-40-2040/- pm. plus other allowances as admissible under the relevant rules from times to time on ad-hoc basis for a period of six months or until further orders whichever is earlier with effect from the date of their joining.

1. Kumari Usham Kamila Devi, Awang Sekmai.
2. Shri Thokchom Basanta Singh, Ningthoukong Kha.
3. Shri Adhikarimayum Hemchandra Sharma, Aramapur
Shagyabati Leikai, Imphal.

The expenditure involved is non-plan and debitable to the Major Head-3454-Census-Survey and Statistics, D1-Census, D1(3)-Other Expenditure, D1(3)(2)-Abstraction and Compilation, D1(3)(2)(1)-Salaries under Grant No.42-Census for the financial year 1991-92.

(A.R. Khan)
Director.

No. A.12011/1/89-(RTO)91 Imphal the 26th March '91

Copy to: 1. All concerned.

2. The Accounts Officer O/o the Pay and Acc unts office (Census), Govt. of India, Ministry of Home Affairs, ACCW and K-Building, New Delhi-110001.

3. File No. A.11011/6/89-Estt.

4. Personnel files.

5. The Assistant (A/C) of this office with a spare copy.

(A.R. Khan)
Director.

No.A.12021/3/89-Apptt(ii)
Government of India
Ministry of Home Affairs
Office of the Director of Census Operations:
Manipur.

Hafiz Hatta Minathong
Imphal- 795001.

OFFICE ORDERS
Imphal, 12th Sept. '91

On the recommendations of the DPC in its meeting held on 5th & 6th Sept. '91 the following persons are appointed (temporarily) to the posts shown against their names for a period upto 29.2.92 or until further orders whichever is earlier. The appointment will however be subject to due verification of their Character/antecedents and certificates in support of their qualifications.

1. Md. Abdul Kalam, Yairipok- Computer,
Pay scale @ Rs.1200-30-1500-EB-40-2040.
 2. Shri AK. Hemchandra Sharma,
Brahmapur Bhagyabati Leikai, Imphal. -do-
 3. Km. U. Kamila Devi, (SC) Awang Sekmai- do-
 4. Shri Th. Basanta Singh, Ningthoukhong - do-
 5. Sh. L. Langrei (ST) Langol Housing
complex, Imphal -do-
 6. Md. Hatim Ali (Handicapped) Yairipok L - D - C
Pay Scale @ Rs.950-20-1150-EB-25-1500
 7. Shri R.S. Salim (ST), Hundung, Ukhrul -do-
 8. Shri T. Surajkumar Singh, Uripok -do-
 9. Shri Sirapam Khamrang (ST), Yaingangpokri -do-
 10. Shri J. Sarat Singh, Mayang Imphal -do-
 11. Km. A. Jamuna Devi (SC) Awang Sekmai -do-
 12. Shri O. Indramani Singh, Ningthoukhong -do-
- This supersedes all previous orders in this regards.

(A. R. Khan)
Director.

No. A.12021/3/89-Apptt(ii),
Copy to:-

Imphal, 12th Sept. '91

- 1) All concerned.
- 2) Personal files & Service books
- 3) The Accounts Officer, O/o, the PAO (Census),
Government of India, Ministry of Home Affairs,
A.G.C.W & M Building, New Delhi-110001.
- 4) The Assistant (a/c) 2 copies.
- 5) Concerned files.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE REGIONAL DEPUTY DIRECTOR OF CENSUS OPERATIONS

Imphal, Manipur Region

Manipur
(Name of State)

CENSUS 1991

DISCHARGE-CUM-CONDUCT CERTIFICATE

Shri/Smt./Kum. Ushann Kamila Devi (Adhoc) has/had been working on temporary/~~contract~~ appointment basis, as Computer & (Adhoc) in the ~~Regional Tabulation~~ Office at Imphal under the Director of Census Operations, Manipur from 31.12.90 to 31.12.93. He/she ~~is~~ was drawing Rs. 2852 p.m. as ~~consolidated~~ salary without allowance and his/her services have been/will be terminated with effect from 31.12.93 (AN) on account of reduction of staff in establishment/~~winding up of the Regional Tabulation Office~~. His/her work and conduct are/were Very Satisfactory.

Place Imphal.

[Signature]
Regional Deputy Director of Census Operations

Dated 21.1.94

Imphal, Manipur Region.

ਸਦਾ ਤਿਆਰ ਹੋਵੋ ਅਤੇ ਸਦਾ ਹੀ ਸੁਖੀ ਰਹੋ।
ਸਦਾ ਤਿਆਰ ਹੋਵੋ, ਸਦਾ ਹੀ

Date 10-5-91

PLA 704-013

No.A.12021/4/93-Apppt
Government of India
Ministry of Home Affairs
Office of the Director of Census Operations,
Manipur.

OFFICE ORDER
Imphal, the 31 / 12 / 1993

The following ad-hoc appointment against 1991-Census which have been sanctioned by the Government till 31.12.93 are hereby terminated from the post shown against each of them consequent of expiry of sanction of the post from the afternoon of 31st Dec. 93.

1. Shri Ph. Arinkumar Singh	Geographer
2. Smt. Y. S. Dinah	Draftsman
3. Shri Th. Dahanjoy Singh	Draftsman
4. Md. Masim Khan	F P M C
5. Md. Abdul Kalam	Computer
6. Shri A. Hemchandra Sharma	Computer
7. Kr. U. Kamila Devi	Computer
8. Shri Th. Basanta Singh	Computer
9. Shri Z. Lungzei	Computer
10. Md. Rasheed Khan	Asstt. Compiler
11. Shri A.S. Stephen	Asstt. Compiler
12. Smt. Ng. Makan	Asstt. Compiler
13. Shri Y. Shantikumar Singh	Asstt. Compiler
14. Md. Habibur Rahman	Proof Reader
15. Md. Sirajuddin	Peon
16. Md. Muhamuddin	Peon
17. Md. Sihabuddin	Sweeper

(H. S. Meena)

Deputy Director,

Imphal, the / / 199

No.A. 12021/4/93-Apppt.

Copy to:- 1) All concerned

- 2) The Pay & Accounts Office(Census)
Govt. of India, Ministry of Home Affairs
A.G.C.M. & M. Building, New Delhi-110001.
3. The HC/Asstt(A/C) of this office.
4. The Service book/ personal files.
5. Concerned files.

(Deputy Director)

- 17 -
20-21-

(4)

Immediate

(47) 3

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No.30/5/91-RG(Ad.II)
Government of India
Ministry of Home Affairs
OFFICE OF THE REGISTRAR GENERAL, INDIA

Kotah House Annexe,
2/A, Mansingh Road
New Delhi-110011

December 26, 1991

To

The Secretaries of all Ministry/Depts.
of the Govt. of India

Subject: Absorption of retrenched census employees who were appointed against short-term vacancies created in connection with the 1991 Census Operations.

Sir,

A large number of group 'C' and 'D' staff were appointed for a short duration of a year or two in connection with the manual processing of data collected in the 1991 Census field operations for which purpose about 160 Regional Tabulation Offices (RTOs) have been set up throughout the country. The work for which these temporary staff have been engaged is expected to be completed in 1992. Thereafter these offices will be wound up and the staff disbanded.

2. It may kindly be appreciated that the mass retrenchment of staff is bound to create a human problem of grave magnitude for the Central Government. It is for the solution of this grave problem that I am seeking your cooperation and assistance as we elicited in the 1971 and 1981 Censuses. In this connection, I am enclosing a copy of the then Registrar General, India, letter No.24/3/81-Ad.1 dated October 19, 1981 which explains the position fully and I need hardly add anything to it even by way of emphasis.

3. In the circumstances and considering the magnitude of this human problem, I look forward to your cooperation and assistance in absorbing retrenched census employees.

2/..

In your various offices/PSUs/autonomous bodies. You are requested to kindly issue suitable instructions in this regard to your offices and public sector undertakings/autonomous bodies under the control of your Ministry/Department to consider the retrenched census employees favourably in preference to raw recruits by according higher priority and special consideration to the former.

Yours faithfully,

(A.R. Nanda)
Registrar General, India

Encl: As above

Most Immediate

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A.11016/2/89-Cell(Pt)/198/dt.7.2.94

Yunnam Leikai
the 4th Feb.'94

To
The Chief Secretary
Government of Manipur.

Subject:- Absorption of retrenched Staff of Census
Directorate.

Sir,

In continuation of this office letter of even number dated 14th December '92 on the subject indicated above I have the honour to enclose herewith a statement showing the list of 17 (seventeen) ad-hoc temporary employees for whose services have been terminated consequent on the expiry of sanction of the post held by them w.e.f. 31.12.93 (AM). They have worked in the Directorate on regular time scale of pay in different categories of posts. As per instructions contained received from time to time certain concession may be given to those retrenched Census employees which was extended upto 28.2.94 in recruiting to the suitable posts vide Ministry of Personnel, Public Grievances & Pension, Department of Personnel & Training O.M. No.14024/1/93-Fatt(D) dated 4.8.93 (Copy enclosed). One Chowkidar/Peon will also be retrenched on 28.2.94 due to non availability of post.

I am, therefore, to request you kindly to extend all the possible help for the absorption of the retrenched Census employees to the suitable posts in the Depts. in the State and intimate a position to this office at an early date.

Yours faithfully,

(Signature)
4.2.94

(H. S. Meena)
Deputy Director.

07

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Encl:- As stated above

(10)

1. Shri Ph. Arunkumar Singh Geographer
2. Smt. S. Dinah Draftsman
3. Shri Th. Dhanraj Joy Singh Draftsman
4. Md. Basim Khan F.P.H.O.
5. Md. Abdul Kalam Computer
6. Shri A. Ramchandra Sharma Computer
7. Mr. U. Kamila Dey Computer
8. Shri Th. Nasanta Singh Computer
9. Shri Z. Lungrei Computer
10. Md. Raahed Khan Asstt. Compiler
11. Shri A.S. Stephen Asstt. Compiler
12. Smt. Ng. Mekan Asstt. Compiler
13. Shri Y. Shantikumar Singh Asstt. Compiler
14. Mr. Habibur Rahman Proof Reader
15. Md. Sirajuddin Peon
16. Md. Muhamuddin Peon
17. Md. Sihanuddin Sweeper

(H. S. Meena)
Deputy Director,

Imphal, the / / 199

No.A..12021/4/93-Appdt.

- Copy to:-
- 1) All concerned
 - 2) The Pay & Accounts Office (Census)
Govt. of India, Ministry of Home Affairs
A.G.C.W. & M. Building, New Delhi-110001.
 3. The HC/Asstt(A/C) of this office.
 4. The Service book/ personal files.
 5. Concerned files.

(Deputy Director)

-24-
-20-
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ANNEXURE-9.

11.3.98.

To,
The Asstt. Director ,
Census Operation, Manipur.
Govt of India.-

Sub :- Prayer for absorption to the post of Asstt. Compiler
in the Directorate of Census Operation Imphal.

Sir,

I have the honour to state that from a reliable source one post of Asstt. Compiler is lying vacant in your office. As I am a retrenched census employee of this Directorate hence my case is required to be considered under the letter dated 26.12.91 and 4.2.94.

Further I am to say that some of the retrenched employees like that of me has already been reappointed of which mention may be made of Smt. N.G. Makan who was also retrenched along with me. Even some of my juniors have also been appointed under your organisation on regular basis of which mention may be made of Smt. Y.S.Dinah. At present I am facing lots of financial hardship and now it has become difficult for me to run my family.

It is therefore prayed once again to kindly consider my case for the said vacant post occurred due to the promotion granted to Sri I Jugen Singh to the post of S.A. which is also a vacant post of ment for SC.

yours faithfully.

Sd/=

Smt.Usham Kamila Devi.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.182 of 1999

Date of decision: This the 4th day of October 1999

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Smt Usham Kamila Devi,
 D/o Late Usham Rupchandra,
 Vill.- Awang Sekmet, Manipur,
 Imphal.

.....Applicant

By Advocates Mr B.K. Sharma and Mr S. Sarma.

- versus -

1. The Union of India, represented by the Secretary to the Government of India, Ministry of Home, New Delhi.
2. The Registrar General of India, New Delhi.
3. The Director of Census Operation, Manipur, represented by the Deputy Director, Census Operations.

.....Respondents

By Advocate Mr A. Deb Roy, Sr. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

This application has been filed by the applicant seeking certain directions to the respondents.

2. Facts for the purpose of disposal of this case are:

The applicant was appointed Assistant Compiler by Annexure 1 Order dated 27.12.1990. As per this order her appointment was only for a certain period, i.e. upto 28.2.1991. However, by Annexure 2 Order dated 26.3.1991 she was asked to continue as Computer for a period of six months. On the expiry of the said period, by Annexure 3 Order dated 12.9.1991 she was allowed to continue until

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Attested
 Lm. Indr
 h.k. nair
 Advocate

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further orders. This order was passed on the basis of the recommendations of the DPC in its meeting held on 5.9.1991 and 6.9.1991. On the strength of the Annexure 3 order the applicant was continuing till 31.12.1993 when her services were terminated by Annexure 6 Order dated 31.12.1993. As she was a retrenched employee, according to her, she was entitled to get regular appointment. However, it was not done. Being aggrieved, the applicant submitted several representations, the last one being Annexure 9 dated 11.3.1998. The representations were not replied to. Hence the present application.

3. We have heard Mr B.K. Sharma, learned counsel for the applicant and Mr A. Deb Roy, learned Sr. C.G.S.C. Mr Sharma submits that the applicant's case is squarely covered by a decision of the Apex Court in Union of India and others -vs- Dinesh Kumar Saxena and others, reported in (1995) 3 SCC 401 and also similar orders passed by this Tribunal in various cases. Mr Deb Roy does not dispute the submissions of Mr Sharma.

4. On hearing the learned counsel for the parties we dispose of this application with direction to the respondents to dispose of the Annexure 9 representation dated 11.3.1998 submitted by the applicant. Mr Sharma submits that the applicant may be allowed to submit yet another representation giving details of her claim. She may do within a fortnight from today. If such representation is filed that shall also be considered by the respondents and by meeting the points raised in the representations and also by following the judicial pronouncements of the Apex Court pass a reasoned order. This must be done as early as

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Attested
Advocate

possible at any rate within a period of two months from the date of receipt of the fresh representation.

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

SD/-VICE-CHAIRMAN

SD/-MEMBER (A)

nkmm

Attended
Kun, Ind
(U.K. rain)

No.C.18013/1/99-IX(UKD)

Government of India

Ministry of Home Affairs

Office of the Director of Census Operations, Manipur.

...

OFFICE ORDER

Imphal, the 3rd January, 2000

In pursuance of the Judgement of CAT, Guwahati in OA No.182/99 and in consideration of the application dated 13.12.99 submitted by her, Smt. Usham Kamila Devi, a retrenched employee is hereby appointed as Assistant Compiler Group 'C' in the Pay scale of Rs.3080-75-3950-80-4590 vice Smt. H. Ranibala Devi on ad-hoc basis for 6 months from the date she joins the post or until further orders whichever is earlier.

The adhoc appointment will not bestow upon her any claim for regular appointment in the grade.

The pay and allowances will be drawn under the salary heads of S.R.S.

(Kh. Dinamani Singh)
Director.

No.C.18013/1/99-IX (UKD)-184 Imphal, the 3rd January, 2000.

- Copy to :-
1. Smt. Usham Kamila Devi,
Awang Sekmai, Manipur.
 2. The Deputy Registrar, CAT,
Guwahati Bench, Guwahati with
respect to the judgement passed on
4.10.99 in OA 182/1999 in CAT Guwahati
Bench, Guwahati - 781 005 for information.
 3. The Under Secretary, Govt. of India,
Office of the Registrar General, India.
 4. The Pay & Accounts Officer (Census),
Govt. of India, M.H.A., A.G.C.R.-Building,
New Delhi - 110002
 5. The HC/Asstt. of this office with a spare
copy each for information and necessary
action.
 6. The concerned files.

(Kh. Dinamani Singh)
Director.

...

NO.C.18013/1/94-CC(III)/682

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS
MANIPURYumnam Leikai
Imphal-795001
23rd Dec.'98.OFFICE ORDER

In pursuance of the directive of Central Administrative Tribunal, Guwahati Bench in respect of O.A. No.60/94 the ad-hoc appointment of Smt. Ng. Makan, Assistant Compiler of this office is hereby regularised with immediate effect.

(S.BIRENDRA SINGH)
ASSISTANT DIRECTOR

No.C.18013/1/94-CC(III) Dated Imphal, 23rd Dec.'98

Copy to:-

- 1) Smt. Ng. Makan, Assistant Compiler
- 2) The Deputy Registrar,
Central Administrative Tribunal,
Guwahati Bench, Guwahati - 5 for
information
- 3) The Head Clerk of this office for
information and necessary action
- 4) The Assistant (A/Cs) of this office
for information and necessary action
for schemes like CPF, CGEGIS, etc.
- 5) Other relevant files.

(S.BIRENDRA SINGH)
ASSISTANT DIRECTOR.

C.18013/1/99-CC-VII
 Government of India
 Ministry of Home Affairs
 Office of the Director of Census Operations, Manipur.

OFFICE ORDER
 Imphal, the 8th Oct. '99

Md. Abdur Rasheed Khan, a retrenched Census employee, is again appointed as Assistant Compiler Group 'C' on a regular basis in a temporary capacity in the pay scale of Rs. 2050-75-3950-81-4590 with immediate effect in pursuance of the order of the CAT (Arwahaty) passed on 13/3/99 in O.A. 31/1999 read with Supreme Court's judgement in Civil Appeal No. 731-69 of 1994 dated 24.2.95. The Character and Antecedents of the person appointed will be verified afresh.

(S. Sirendra Singh)
 Asstt. Director

No. C.18013/1/99-CC-VII-267

Imphal, the 8th Oct. '99

Copy to:-

1. Md. Abdur Rasheed Khan,
 Kshetri Bangoon, Kshetrigaon, Imphal.
2. The Pay & Accounts Officer (CENSUS)
 A.C.C.R. & M. Building, D-Wing, 4th Floor,
 New Delhi - 110002.
3. The H.C. of this office for necessary
 recording in the service book of appointee.
4. The Asstt. of the office for information
 necessary action.
5. The relevant files.

S. Sirendra Singh
 Asstt. Director.

No. C.18013/1/99-IX(UKD)
 Government of India
 Ministry of Home Affairs
 Office of the Director of Census Operations, Manipur

O R D E R
 Imphal, February 25, 2000

Whereas an order No.C.18013/1/99-IX(UKD) dated 30-12-99 was issued granting Smt. Usham Kamila Devi a retrenched Census employee certain concessions such as relaxation in maximum age limit to the extent of temporary service rendered by her before retrenchment, exemption from the sponsorship by Employment Exchange and priority in employment in respect of direct recruit vacancies in the Central Govt. subject to the fulfilling the eligibility criteria prescribed for any direct recruit vacancy notified by the Central Govt. in consideration of the judgement passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench on 4th October, 1999 in respect of O.A. 182/99 filed by Smt. Usham Kamila Devi ;

Whereas Smt. Usham Kamila Devi a retrenched Census employee was again appointed as Assistant Compiler in this Directorate on ad-hoc basis for a period of six months w.e.f. 3rd Jany. 2000 under this office order No. C.18013/1/99-IX(UKD) dated 3rd Jany. 2000 in consideration of her application submitted to this office on 11-10-99 and 13-12-99 as per the judgement of Central Administrative Tribunal, Guwahati Bench passed in O.A. No. 182/99 ;

Whereas the office of Registrar General, India has directed that the ad-hoc appointment of Smt. Usham Kamila Devi be terminated from the post of Assistant Compiler without any liability on this Directorate for her continuation in the said post with immediate effect as such post is to be filled in by Staff Selection Commission and also directed to send requisition for the vacant post to the Staff Selection Commission with the copy of the judgement so that the relaxation permitted by the Central Administrative Tribunal could be considered by Staff Selection Commission while filling up the post ;

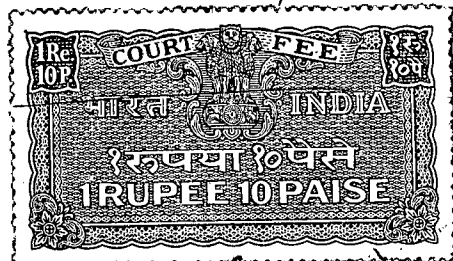
Now, therefore, the ad-hoc appointment of Smt. Usham Kamila Devi is hereby terminated from the post of Assistant Compiler with immediate effect.

(Kh. Dinamani Singh)
 DIRECTOR

- No. C.18013/1/99-IX(UKD)/ 348 Imphal, February 25, 2000
 Copy to :-
- 1) Smt. Usham Kamila Devi, A.C. for information.
 - 2) The Jt. Registrar General, O/o the Registrar General, India w.r.t. their letter No. A.42011/14/99-Ad.II dated 16-2-2000 for information.
 - 3) The Pay & Accounts Officer(Census), ACRAM-Building, 4th Floor, D-11ng, New Delhi-110002.
 - 4) The IC/Asstt. of this office for information.
 - 5) The relevant file.

(Kh. Dinamani Singh)

Attested
 (U.K. Nair)
 Admn. Secy



IN THE
Central Administrative Tribunal
23 MAR 2000
GUWAHATI Bench

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

IN THE MATTER OF :

O.A.NO.89/2000

(Smti.Usham Kamila Devi

-VS-

Union of India & Ors)

- AND -

IN THE MATTER OF :

An Order dtd. 2-3-2000

passed by the Hon'ble
Tribunal in the aforesaid
Original Application.

- AND -

IN THE MATTER OF :

A show cause for and on
behalf of the Respondents in the
shape of an Affidavit.

I, Shri..S..MRENDRA...SINGH..., Assistant Director, Census
Operation, Manipur, Imphal, do hereby solemnly affirm and state as
follows :

- 1). That I am the Assistant Director, Census Operation in the office
of the Director Census Operation, Ministry of Home Affairs, Manipur,
Imphal has been impleaded as Party Respondent No.3 in the instant
Original Application alongwith Union of India and Registrar general
of India. I have been duly authorised by the Union of India and
other Official Respondents to look after the developement of the
instant Original Application representing all of them including
filing of show cause and written statement. I have received a
copy of the Original Application served on Respondent No.3, gone
through the same and understood the contents thereof, as such I am
competent to swear this Affidavit and file show cause for and on
behalf of all the Respondents.
- 2). That this Deponent does not admit any of the facts, statements,
allegations and averments made by the Applicant in the Original App-
lication save and except those have been specifically admitted here-
under in this show cause. Further the statements which are not borne
on records have also been categorically denied.

contd.....2/-

Filed by
Sri S. Arundel Singh
ASST.

31
Rough
Shri. S. Arundel Singh
Sd/- C.G.S.C., CAT, 14/3/2000.

3.) That the Applicant has filed the instant Original Application challenging, inter alia, the validity of her termination of her adhoc appointment as Assistant Compiler in the office of the Director, Census Operation, Manipur, Imphal, vide order No. C.18013/1/99-IX(UKD)/304 dtd.25.2.2000 which was issued under the hand of the Director, Census Operation, Manipur, Imphal.

A photostat copy of the aforesaid order dtd.25.2.2000 is annexed herewith and marked as ANNEXURE-R¹ hereof.

Be it stated that a copy of the aforesaid order was duly handed over to Smti. Usham Kamila Devi on the same day and she endorsed the receipt of the same as such the order was effected from 25.2.2000 accordingly she was relieved from the adhoc appointment as Compiler from that day, i.e. 25.2.2000.

4.) That this Deponent respectfully states that the Applicant after having been relieved from the adhoc appointment in pursuance of the order dtd.25.2.2000 approached the Hon'ble Tribunal by way of filing the present O.A and the Hon'ble Tribunal while admitting the said O.A was pleased to direct the Respondents to show cause vide order dtd.2.3.2000 as to why the interim order shall not be granted fixing the date on 15.3.2000 for interim order. It was also directed that if the Applicant has not been actually released from service as on 2.3.2000 her service shall not be disturbed.

A photostat copy of the aforesaid order dtd.2.3.2000 is annexed herewith and marked as ANNEXURE-R² hereof.

5.) That this Deponent respectfully stated that on earlier occasion the Applicant filed another O.A which was registered and numbered as O.A.No.182/99 and the Hon'ble Tribunal was pleased to dispose off the said O.A vide order dtd.4.10.99 with a direction to dispose off the representation of the Applicant with a reason order. In pursuance of the said order passed by the Hon'ble Tribunal the Applicant was appointed as Assistant Compiler on adhoc basis for a short period vide order No.C.18013/9/99-IX (UKD) dtd.3.1.2000.

contd.....3/-

6.) That this Deponent respectfully states that in the meanwhile the Registrar general of India took serious view in respect of such adhoc appointment of Applicant and issued directives to terminate immediately such adhoc appointment by fixing responsibility against the arring Officer vide letter No.A-42011/14/99-Ad.II dtd. 16.2.2000. The contents of the aforesaid letter may be reproduced as under :

" I am directed to refer to your letter No.C.18013/1/99-CC-IX(UKD) dtd.11.2.2000 regarding adhoc appointment of Smti.Usham Kamila Devi.

The appointment made by you in the above case is based on misinterpretation of the order of CAT dtd.4.10.99. Only the authority competent to make direct recruitment in a particular post can grant relaxation as directed by the Court.The post of Assistant Compiler/LDC is required to be filled in by Staff Selection Commission. The requisition for the vacant post should have accordingly been sent to the Staff Selection Commission, alongwith the copy of the judgement so that the relaxation permitted by the court could be considered by SSC while filling up the post.

In view of the above position you are hereby directed to terminate the adhoc appointment of Smti. Usham Kamila Devi immediately.It may please be ensured that termination is ordered in such a way that the candidate does not get chance to obtain stay order from CAT. A copy of the termination order may be sent to the office by return FAX.

Your are also directed to fix responsibility for the above lapse under intimation to this office."

A photostat true copy of the aforesaid letter dtd.16.2.2000 is annexed herewith and marked as ANNEXURE-R³ hereof.

7.) That This Deponent further respectfully states that the joint Registrar general of India addressed all Directors, Census Operation vide No.12011/3/2000-Ad.IV dtd.14.2.2000 whereby ban was imposed in

contd.....4/-

respect of adhoc appointments from open market against any long-term or short-term vacancy and detailed guidelines for filling up of posts sanctioned for Census of India-2001 were sent separately.

A copy of the aforesaid letter dtd. 14.2.2000 is annexed herewith and marked as ANNEXURE-R⁴ hereof.

The guidelines issued in this regard vide letter No.12011/4/2000 Ad.IV dtd.14.2.2000 may be reproduced as follows ;

" 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 the census of India-2001 in group 'C' and 'D' are filled in only either by promotion or 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 promotion against above mentioned posts is enclosed, which suitable needbased modifications.

If some of the Officials appointed against Census of India-~~2000~~ 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 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. ~~hgw~~ 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.

contd.....5/-

35

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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. Officers, etc."

A copy of the aforesaid guidelines dtd. 14.2.2000 is enclosed herewith and marked as ANNEXURE-R⁵ hereof.

8.) That this Deponent respectfully submits that under the facts and circumstances as has already been stated in the foregoing paragraphs and more particularly since the Applicant was already relieved from the service appointed on adhoc basis much before the passing ~~the~~ of order by the Hon'ble Tribunal dtd. 2.3.2000. Hence the prayer of the Applicant for interim order staying the termination order dtd. 25.2.2000 is not tenable in the eye of law. As such the prayer of Applicant for granting interim order by way of staying the impugned order dtd. 25.2.2000 ~~is~~ liable to be dismissed.

9.) That this Deponent respectfully submits that in the event of Applicant's relieved ~~from~~ from the adhoc appointment by the order dtd. 25.2.2000, if the Hon'ble Tribunal is pleased to grant any interim order by suspending or staying the aforesaid impugned order the whole character of the case will be changed and the Respondent Department will face great administrative inconvenience and also suffer irreparable financial loss. In this back drop the interim prayer of the Applicant for staying/suspending impugned order dtd. 25.2.2000 may be dismissed.

10.) That the statements made in paragraphs...^{1.2.2}..... of the written statement are true to the ~~best~~ best of my knowledge and those have been made in paragraphs. ^{3.4.5.6.8.7}..... are true to the best of my information which have been derived from the records and the rests are my humble submission before the Hon'ble Tribunal.

^{14th} AND I subscribe my hand into this Affidavit this the day of March 2000.

B. S. Dasgupta
DEPONENT

Identified by
Bhaben Singh Dasgupta
Addl. CGSC, CAT,
GUWAHATI BENCH,
GUWAHATI.

The Deponent hereof has solemnly affirmed and declared before me who is identified by Sri...
B. S. Dasgupta...,
Addl. CGSC, CAT, Guwahati
this the ^{14th} day of
March 2000.

Asit Arif
ADVOCATE

- 6 - Annexure - R-107 26
10

No. C.18013/1/99-IX(UKD) / 308
Government of India
Ministry of Home Affairs
Office of the Director of Census Operations, Manipur

O R D E R
Imphal, February 25, 2000

Whereas an order No.C.18013/1/99-IX(UKD) dated 30-12-99 was issued granting Smt. Usham Kamila Devi a retrenched Census employee certain concessions such as relaxation in maximum age limit to the extent of temporary service rendered by her before retrenchment, exemption from the sponsorship by Employment Exchange and priority in employment in respect of direct recruit vacancies in the Central Govt. subject to the fulfilling the eligibility criteria prescribed for any direct recruit vacancy notified by the Central Govt. in consideration of the judgement passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench on 4th October, 1999 in respect of O.A. 182/99 filed by Smt. Usham Kamila Devi ;

Whereas Smt. Usham Kamila Devi a retrenched Census employee was again appointed as Assistant Compiler in this Directorate on ad-hoc basis for a period of six months w.e.f. 3rd Jany. 2000 under this office order No. C.18013/1/99-IX(UKD) dated 3rd Jany. 2000 in consideration of her application submitted to this office on 11-10-99 and 13-12-99 as per the judgement of Central Administrative Tribunal, Guwahati Bench passed in O.A. No. 182/99 ;

Whereas the office of Registrar General, India has directed that the ad-hoc appointment of Smt. Usham Kamila Devi be terminated from the post of Assistant Compiler without any liability on this Directorate for her continuation in the said post with immediate effect as such post is to be filled in by Staff Selection Commission and also directed to send requisition for the vacant post to the Staff Selection Commission with the copy of the judgement so that the relaxation ~~per~~ permitted by the Central Administrative Tribunal could be considered by Staff Selection Commission while filling up the post ;

Now, therefore, the ad-hoc appointment of Smt. Usham Kamila Devi is hereby terminated from the post of Assistant Compiler with immediate effect.

U. Kamila Devi

(Kh. Dinamani Singh)
DIRECTOR

- No. C.18013/1/99-IX(UKD) / 308 Imphal, February 25, 2000
Copy to :-
- 1) Smt. Usham Kamila Devi, A.C. for information.
 - 2) The Jt. Registrar General, O/o the Registrar General, India w.r.t. their letter No. A.42011/14/99-Ad.II dated 16-2-2000 for information.
 - 3) The Pay & Accounts Officer(Census), AGCR&M-Building, 4th Floor, D-wing, New Delhi-110002.
 - 4) The HC/Asstt. of this office for information.
 - 5) The relevant file.

(Kh. Dinamani Singh)
DIRECTOR

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 89/2000 OF 199

Applicant(s) Smt. Ustam Kamila Devi.

Respondent(s) Union of India and ors.

Advocate for Applicant(s) Mr. B.K. Sharma.

Mr. S. Sarma.

Advocate for Respondent(s) Mr. U.K. Nair.

C.G. Sr.

Notes of the Registry	Date	Order of the Tribunal
	2.3.2000	<p>Application is admitted. Mr B.S. Basumatary, learned Addl.C.G.S.C xxx receives notice. No formal notice need be sent.</p> <p>Mr List on 3.4.2000 for written statement and further orders.</p> <p>Mr S.Sarma, learned counsel for the applicant prays for an interim order.</p> <p>Mr Basumatary submits that he has no instruction. Issue notice to show cause as to why the interim order shall not be granted.</p> <p>List on 15.3.2000 for interim order. Meanwhile, if the applicant has not been actually relieved from service, as on today her services shall not be disturbed.</p>



Copy to be made

Sd/MEMBER (A)
Sd/ MEMBER (3)

सं. 1 "जलपथ"
 Telegram : "REGGENLIND"

8- Annexure R-3 16/38
 Fax/Speed Post 9

सं./No. A-42011/14/99-Ad.II

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

R.NO. 226
 23/2/2000

नई दिल्ली, दिनांक
 New Delhi, the

16th February, 2000

To

The Director,
 Directorate of Census Operations,
 Manipur
 Yumnam Leikai,
 Imphal - 795001.

Sir,

I am directed to refer to your letter No.C.18013/1/99-CC-IX(UKD) dated 11.2.2000 regarding ad hoc appointment of Smt Usham Kamila Devi.

The appointment made by you in the above case is based on misinterpretation of the Order of CAT dated 4.10.99 in respect of O.A. No.182/1999. Only the authority competent to make direct recruitment in a particular post can grant relaxations as directed by the Court. The post of Assistant Compiler/LDC is required to be filled in by Staff Selection Commission. The requisition for the vacant post should have accordingly been sent to the Staff Selection Commission alongwith the copy of the judgement so that the relaxation permitted by the Court could be considered by SSC while filling up the post.

In view of the above position, you are hereby directed to terminate the ad hoc appointment of Smt. Usham Kamila Devi immediately. It may please be ensured that termination is ordered in such a way that the candidate does not get chance to obtain stay from CAT. A copy of the termination order may be sent to this Office by return FAX.

You are also directed to fix responsibility for the above lapse under intimation to this office.

Yours faithfully,



(JAYASHREE GUPTA)
 Jt. Registrar Genl.(I)

Pl examine whether vacancy less than 1 year and its filling be referred to SSC. And in the meantime pl issue speaking termination order.

Jm
 23/2/2000

9/5/11
 23/2/2000

23/2

सं. : "जनगणना"
Telegram : "REGGENLIND"

सं./No. 12011/3/2000-Ad.IV

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 14.2.2000
New Delhi, the

To

All DCOs

Subject: Ad hoc appointments.

Madam/Sir,

I am directed to refer to our letter of even number dated 20.1.2000 and subsequent discussions in DCOs Conference during February 3-5, 2000 on the above subject and clarify that ad hoc appointments from open market are totally banned. Any violation of this instruction will be viewed seriously.

DCOs are requested to ensure that no ad hoc appointments are made from open market against any long term or short term vacancy due to any reason whatsoever. Detailed guidelines for filling up of posts sanctioned for Census of India, 2001 are being sent separately. You are requested to acknowledge the receipt of this letter.

Yours faithfully,



(JAYASHREE GUPTA)
Joint Registrar General, India

R. No. 221
23/2/2000

23/2/2000
27/2/2000
H.A.

24/2

Telegram: "REGGLENLIND"

सं/No. 12011/4/2000-Ad.IV
भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GAHI MANTRALAYA
भारत के गृह रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

नई 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

(M. R. Singh)

Under Secretary to the Govt. of India

- 11 -

OFFICE ORDER

The following (Name of lower post) in the Directorate of Census Operations, _____ are promoted to the post of (Name of higher post) on regular basis in temporary capacity with effect from the date they take charge of the post until 28.02.2001 or till further orders whichever is earlier :

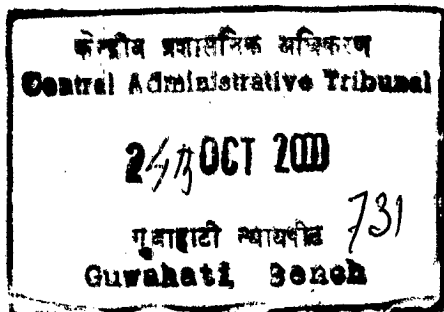
1. (Name of officials being promoted)
2. _____
3. _____
4. _____

The above promotion has been made against the purely temporary posts sanctioned for Census of India - 2001/ resultant vacancies caused by promotions against posts sanctioned for Census of India - 2001, and this promotion will continue only upto their sanctioned period. The above promotion order shall not bestow upon the afore mentioned officials any claim for regular promotion against long term vacancies or core posts.

The above officials shall automatically stand reverted as (Name of lower post) on the expiry of the above referred date(s) even if no separate order for reversion is issued.

-41- 54

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GUWAHATI BENCH
GUWAHATI



O.A.No. 89/2000

Smt. Usham Kamila Devi

- Vs -

Union of India & Ors.

WRITTEN STATEMENT FOR AND ON BEHALF OF
RESPONDENT Nos. 1, 2 and 3.

I, Shri Kh. Dinamani Singh, Director of Census Operations, Manipur, Ministry of Home Affairs, Imphal do hereby solemnly affirm and state as follows :

1. That I am the Director of Census Operations, Manipur Ministry of Home Affairs and I have been impleaded Party Respondent No. and I have received a copy of the original application, gone through the same and understood the contents thereof. Further I have been authorised by the Union of India and other Official Respondents to represent in this case by way of filing written statement and taking steps from time to time. As such I am competent to verify and file this written statement for and on my own behalf as well as for and on behalf of the other Official Respondents.
2. That this Respondent does not admit any of the facts, statements, allegations and averments made in the original application save and except those have been specifically admitted hereunder in this written statement. Further the statements which are not borne on records have also been categorically denied.
3. That as regards the contents of paragraphs 1,2,3 and 4 of the original application this answering Respondent does not make any comments since those are matter of records and law.
4. That as regards the contents of paragraph 4.2 of the original application this answering Respondent respectfully states that the applicant was first appointed in the department on 27-12-90 as Assistant Compiler for a short period till 28-2-91 and then

contd..... 2/-

Filed by Kh. Dinamani Singh
for Kh. Dinamani Singh
Rough
Shri Kh. Dinamani Singh
Ad. CSSC, DT 24/10/2000

- : (2) : -

as Computer on 26-3-91 against the post created for 1991 Census works on ad-hoc basis and her appointment was extended from time to time till her termination to her service w.e.f. 31-12-93 due to abolition of 1991 Census post. Thereafter Smt. Usham Kamila Devi filed and original application being No. 181/99 which was finally disposed of by the Hon'ble CAT, Guwahati Bench vide order dated 4-10-99 and in pursuance of the said order passed by the Hon'ble Tribunal a representation was submitted by the said Smt. U.K. Devi. However, her prayer in the representation would not be accepted since there was no vacant post of Assistant Compiler at that time. Thereafter, the applicant submitted another representation for her appointment on ad-hoc basis in the same post. This was considered and considering her acute financial problem she was appointed on humanitarian ground on adhoc basis on 3-1-2000 against a vacancy caused by an adhoc promotion. It is pertinent to mention here that the applicant was appointed for six months on adhoc basis from the date of her joining. However, since the said appointment was irregular inasmuch as such appointment should have been made through the Staff Selection Commission which is the recruitment agency and competent to relax the eligibility criteria for recruitment in the particular post and as it was not done through Staff Selection Commission, the Registrar General, the Respondent No. strongly viewed and directed the answering Respondent to withdraw the appointment of the applicant vide his letter No. 42011/14/99-Ad.II dated 16-2-2000. In pursuance of the aforesaid letter issued by the Registrar General of India and with a view to rectify the irregularity in respect of the said appointment the adhoc appointment of the applicant was withdrawn vide order No.C.18013/1/99-IX(UKD)/308 dated 25-2-2000. The action taken against the applicant for withdrawing her appointment has been done for administrative convenience and selling the things right which was done bonafide.

5. That as regards the contents of paragraph 4.3 of the original application this answering Respondent does not want to repeat the same for the sake of bravity, however he reiterates the statements made in immediate preceding paragraphs of this written statement.

contd..... 3/-

6. That as regards the contents of paragraph 4.4 of the original application this answering Respondent does not make any comments since those are matter of records.

7. That as regards the contents of paragraphs 4.4 and 4.5 of the original application this answering Respondent respectfully states that the applicant was appointed on adhoc basis against the post created for 1991 Census and her said adhoc appointment was terminated w.e.f. 31-12-93 consequent upon the abolition of the post created for 1991 Census vide Registrar General's letter No. 2/4/90-RG(Ad.II) dated 30-11-93. Thereafter she was not engaged again in this department till her adhoc appointment made on 3-1-2000.

8. That as regards the contents of paragraph 4.7 of the original application this answering Respondent respectfully states that the cases of Sri A.S. Stephen and Smt. Ng.Makan, referred to by the applicant were not similarly situated persons with the applicant as Sri A.S. Stephen and Smt. Ng. Makan were allowed by the Hon'ble Tribunal to continue their services without any break. The other cases were also different with the case of the applicant and on consideration of the merit of the individual cases their prayer were allowed. In the present case, however, the termination of the applicant has been effected in order to rectify the administrative bonafide mistake in respect of recruitment of the applicant. It is pertinent to mention here that in order to meet the financial constrain to the Govt. of India have imposed ban in respect of such adhoc appointment and to minimize the financial implication during the census operations in the employment, Govt. of India has taken a policy decision that no appointment from open market will be made for the census work for the Census 2001. Such decision has been communicated vide Registrar General letter No. 12011/3/2000(Ad.IV) dated 14-2-2000.

A photostat true copy of the aforesaid letter dt. 14-2-2000 is annexed herewith and marked as ANNEXURE-'A' hereof.

9. That as regards the contents of paragraph 4.8 of the original application this answering Respondent does not make any comments.

10. That as regards the contents of paragraph 4.9 of the original application this answering Respondent respectfully states that the scheme and the concession/relaxation for absorption of retrench personnel are to be considered on the basis of availability of vacancies that can be filled up by direct recruitment through Staff Selection Commission according to suitability of retrenched census employees as per direction of the Govt. of India issued from time to time. Further it is pertinent to state here that as has been stated that the policy in respect of engagement of census employees has been changed and at present a complete ban on direct recruitment has been imposed. Be it also stated that the office letter dated 26-12-91 and other circulars referred to by the applicant are design only to help the retrench census employees to find employment else where and are not intended to create false hopes in the mind of the applicant that she will be given permanent employment as claimed. Under the facts and circumstances the instant original application is not tenable as such the same is liable to be dismissed.

11. That as regards the contents of paragraph 4.10 of the original application this answering Respondent respectfully states that the result and vacancy due to promotion of Shri I. Jugin Singh has already been filled up by one Schedule Caste Departmental candidate on promotion. It is not true that there is no Departmental Schedule Caste candidate suitable for promotion as alleged by the applicant, and, therefore it is also not true that the post will be allotted to some outsider without considering the interest of the applicant. However, immediately after the lifting of ban on direct recruitment along with the requisition of candidates, the judgement and order of the Hon'ble Tribunal passed against the applicant will be forwarded to the Staff Selection Commission so as to relax the eligibility in favour of retrench census employees.

12. That as regards the contents of paragraphs 4.11 & 4.12 of the original application this answering Respondent does not make any comments since those are matter of records.

13. That as regards the contents of paragraph 4.13 of the original application this answering Respondent respectfully states that as has been stated the case of the applicant is not similar to the cases of others. She was holding a promotional post with no lein on her previous appointment. The applicant worked as Assistant Compiler for only two months from 27-12-90 to 28-2-91. The post of Computor to which she was appointed subsequently on 26-3-91 and worked till 31-12-93 was a promotional post.

14. That as regards the contents of paragraph 4.14 of the original application this answering Respondent for the sake of bravty does not repeat the same, however, he reiterates the statements made in paragraph of this written statement.

15. That as regards the contents of paragraph 4.15 of the original application this answering Respondent respectfully states that the termination of the applicant's adhoc appointment has been made with a view only to rectify the inadvertant administrative mistake and to follow the Govt. of India new policy in respect of engagement of census workers for the census operation 2001. The aforesaid termination order dated 25-2-2000 was duly received by the applicant on 25-2-2000 itself and as such the same took effect from 25-2-2000.

16. That as regards the contents of paragraph 4.15(sic) of the original application this answering Respondent respectfully states that the matter of routing through Staff Selection Commission is a government policy and appointment is subject to availability of regular vacancy. Regularisation of any appointment is also a matter of government policy. It is pertinent to mention here that appointment made in violation of Rules and Regulation and instructions/directives issued by the Government of India from time to time and established procedure as has been the case of applicant cannot sustain in the eye of law. As such, as has been explained, though the applicant was appointed for a period of six months on adhoc basis, her appointment necessitated to be terminated on the reasons of procedural lapse and due to change of policy of the Govt. of India, thus the allegations levelled by the applicant have no legal merit and liable to be rejected and on that count the entire original application is liable to be dismissed.

- : (6) : -

17. That as regards the contents of paragraphs 4.16, 4.17 and 4.18 of the original application this answering Respondent respectfully states that the adhoc appointment of the applicant was made with a view to honour the judgement on order of the Tribunal considering the economic suffering of the applicant before receiving the instruction from the Govt. of India as regards the change in policy relating to engagement of census employees in anticipation of unchanged policy followed on earlier occasions. However, on receipt of instructions from the Govt. of India vide No. 12011/4/2000-Ad.IV dated 14-2-2000 issued under the hand of Under Secretary to the Govt. of India, Ministry of Home Affairs No. 12011/3/2000-Ad.IV dt. 14-2-2000 issued under the hand of Joint Registrar General of India, Ministry of Home Affairs it became obligatory on the answering Respondent to comply with such instructions. As a result the said adhoc appointment of the applicant was terminated as mention above. It is pertinent to mention that during the relevant period of time there was no regular vacancy in the Directorate of Census Operations, Manipur and the said appointment was also not routed through the Staff Selection Commission which is a mandatory procedure and which is a competent agency for recruitment against any vacancy by giving necessary relaxation of eligibility criteria. Since in the case of appointment of the applicant there was procedural lapse as stated and the said appointment was against the policy decision of Govt. of India, hence the adhoc appointment of applicant was terminated.

18. That as regards the contents of paragraph 4.19 of the original application this answering Respondent respectfully states that the case of Smt. Ng. Makan as referred to by the applicant as has been already explained that it is a complete different from the case of the applicant. However, it is stated that she cannot establish her right by comparing the case of others without taking into her merit of the case individually considering the facts and circumstances of the case of every individual. On that count the claim of the applicant is not sustainable and for that matter the original application is entirely not maintainable as such liable to be dismissed.

19. That as regards the contents of paragraph 5 of the original application this answering Respondent respectfully submits that as has been explained the present original application does not bear any legal valid ground and as such the same is not maintainable and the same is liable to be dismissed.

20. That as regards the contents of paragraph 6 & 7 of the original application this answering Respondent does not make any comments.

21. That as regards the contents of paragraphs 8 & 9 of the original application this answering Respondent respectfully submits that under the facts and circumstances and reasons as have been explained above since the instant original application does not bear any merit and not sustainable in the eye of law as such the applicant is not entitled any relief including the interim relief as prayed for. Thus the instant original application is liable to be dismissed.

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

I, Shri Kh. Dinamani Singh, Director of Census Operations, Manipur, Ministry of Home Affairs do hereby solemnly affirm and state that the statements made in this verification including those have been made in paragraphs . 4, 7, 8 and 17 of the written statement are true to the best of my knowledge and belief and those have been made in paragraphs . 10, 11, 13, 15 and 18 are true to my information which have been derived from the records and the rests are my humble submission before the Hon'ble Tribunal.

AND I verify and sign this verification this the eighteen day of October . . . 2000.

Kh. Dinamani Singh

D E P O N E N T

R.No. 217
28/2/2000

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~~MINISTERIAL~~ R.S.A.
61
(12)

नई दिल्ली, दिनांक 2/4, 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

(M. R. Singh)

Under Secretary to the Govt. of India

929 ✓
OFFICE ORDER

The following, (Name of lower post) in the Directorate of Census Operations, _____ are promoted to the post of (Name of higher post) on regular basis in temporary capacity with effect from the date they take charge of the post until 28.02.2001 or till further orders whichever is earlier:

1. (Name of officials being promoted)
2. _____
3. _____
4. _____

The above promotion has been made against the purely temporary posts sanctioned for Census of India - 2001/ resultant vacancies caused by promotions against posts sanctioned for Census of India - 2001, and this promotion will continue only upto their sanctioned period. The above promotion order shall not bestow upon the afore mentioned officials any claim for regular promotion against long term vacancies or core posts.

The above officials shall automatically stand reverted as (Name of lower post) on the expiry of the above referred date(s) even if no separate order for reversion is issued.

DD/AD of Census Operations

सं. 1 "जनसंपर्क"
Telegram : "REGGENDLIND"

49-
~~ANNEXURE R~~ B, 10
(13) 62
⑨
सं./No. 12011/3/2000-Ad.IV

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
New Delhi, the

14.2.2000

To

All DCOS

Subject: Ad hoc appointments.

Madam/Sir,

I am directed to refer to our letter of even number dated 20.1.2000 and subsequent discussions in DCOS Conference during February 3-5, 2000 on the above subject and clarify that ad hoc appointments from open market are totally banned. Any violation of this instruction will be viewed seriously.

DCOs are requested to ensure that no ad hoc appointments are made from open market against any long term or short term vacancy due to any reason whatsoever. Detailed guidelines for filling up of posts sanctioned for Census of India, 2001 are being sent separately. You are requested to acknowledge the receipt of this letter.

Yours faithfully,


(JAYASHREE GUPTA)

Joint Registrar General, India

20/1/2000
27/2/2000
H.A.
24/2



Sri B. S. Basumatary, M.A., LL.M.

Addl. CGSC, CAT
Guwahati Bench.

CHAMBER & RESIDENCE

☎ : 221220, 222544

G. S. Road;

Ganeshguri Chariali

Dispur, Guwahati-781 005

Dated: 24/10/2000.

To

Sri B. Sarma,
Advocate.

Sub: Filing of written statement in OA No. 89/2000
(Case: U. K. Devi - vs - UOI & ors).


Sir,

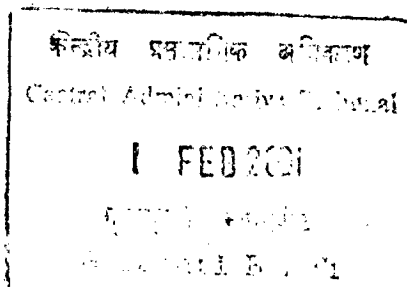
Kindly take notice that written statement in OA No. 89/2000 is being filed herewith in the Hon'ble Tribunal and copy of the same is furnished herewith for your use.

Receipt of the same may be acknowledged.

Received copy
24/12/2000
Advocate

Yours faithfully


B. S. Basumatary
Addl. CGSC, CAT
Guwahati Bench.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 89 of 2000

Smt. U.K. Devi.

-versus-

Union of India & Ors.

Rejoinder to the Written Statement

1. That the applicant has received a copy of the ws and has gone through the same and understood the contention made therein. Save and except the statement which is admitted herein below, other may be treated as total denial.
2. That with regard to the statement made in para 1 to 3 of the ws the applicant offers no comment on it.
3. That with regard to the statement made in para 4 of the affidavit in opposition the applicant denies the correctness of the same and begs to state that her initial appointment as Asstt Compiler was made pursuant to a recommendation of DPC against a vacant post created/vacated by Sri Ng Imo Singh and the said appointment was made following the due process of law. Thereafter vide order dated 31.12.93 her service was terminated without any notice and without following the due process of law by the respondents. Applicant being aggrieved by the said order of termination had approached the Hon'ble Tribunal by way of filing O.A. No 182 of 1999. On 4.10.99 the Hon'ble Tribunal after hearing the parties to the proceeding was pleased to dispose of the said O.A directing the respondents to consider the case of the applicant in the light of various Apex Court Judgment. Pursuant to the said Judgment and order dated 4.10.99, she submitted her representation enclosing the said Judgment and the

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respondents acting on the said representation as well as the Judgment of the Hon'ble Tribunal issued an order dated 3.1.2000 appointing her in the vacant post of Asstt Compiler. The said vacant post occurred due to the promotion given to one Smt. H.R. Devi. However, after few months, the respondents have issued an order dated 25.2.2000 terminating the service of the applicant violating the judgment passed by the Hon'ble Tribunal. The respondents have failed to take into consideration the various guidelines issued by the Govt. of India from time to time in this regard, and so also the Apex Court Judgment laying down the law in this regard. As per the said impugned order the respondents have insisted upon some irrelevant facts in respect of qualification but in fact under same fact situation persons similarly situated like that of the applicant namely Smt Ng Makan. has been regularised. The respondents however, in regularising the service of Smt Ng Makan id not insists on those qualifications, and hence the stand taken by the respondents are self contradictory and after thought. Needless to say here that after filing of the present application numbers of similarly situated employees like that of the applicant had approached the Hon'ble Tribunal by way of filing various OAs and the same have been allowed in the light of Hon'ble Apex Court Judgment and most of them have been regularised. The applicant is also prays for a similar direction in this case, by setting aside the impugned order dated 25.2.2000 with a further direction to regularise her service with retrospective effect with all consequential service benefits as has been done in others case.

4. That with regard to the statement made in para 5 and 6 of the ws the applicant offers no comment on it.

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5. That with regard to the statement made in para-7 of the ~~ws~~ the applicant while reiterating and reaffirming the statement made above as well as in the OA , denies the correctness of the same and begs to state that the issuance of the impugned order is net result of arbitrary action of the respondents and same depicts total non-application of mind by the respondents.

6. That with regard to the statement made in para- 8 of the ~~ws~~ the applicant while denying the statements made therein, reiterates the statement made in the O.A. and begs to state that inspite of clear cut direction from the Hon'ble Tribunal in OA No 182 of 1999, the respondents have issued the impugned order dated 25.2.2000, which is per-se illegal and same is contemptuous in nature and for that the respondents are liable to be punished. Giving a temporary appointment the respondents have given a show that they have complied with the Judgment of this Hon'ble Tribunal . In fact the respondents have shown their disregard to the said Judgment. the Hon'ble Tribunal made a categorical mention regarding the Apex Court judgment (Govt of Tamilnadu & ors -vs- G. Md Ammenuddin & ors. 99 (7) SCC 499) laying down the law and hence the impugned order dated 25.2.2000 can be termed as illegal and liable to be set aside and quashed. On the other hand the stand taken by the respondents regarding the orders dated 14.2.2000 is also not sustainable since they are also contradictory and violative of the law laid down by Hon'ble Apex Court.

7. That with regard to the statement made in para-9 of the ~~ws~~ the applicant while reiterating the statement made above and in the O.A. begs to state that there are numbers of vacancies in which the applicant can be accommodated by regularising her services. From the orders dated 14.2.2000 it reveals that there are vacancies and hence the stand regarding want of vacancy is

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baseless. It is further sated that the stand taken by the respondents regarding the change of policy as well as the ban on recruitment is baseless and same is violative of the law laid down by the Hon'ble Apex Court.

8. That with regard to the statement made in the paragraph 10 of the ws the applicant denies the correctness of the same and begs to state that there are numbers of vacancies lying unfilled under the respondents and in the light of Apex Court verdict, the applicant can very well be accommodated by regularising her service granting all the consequential service benefits.

9. That with regard to the statement made in paragraph 12 of the ws the applicant offers no comment on it.

10. That with regard to the statement made in paragraph 13 and 14 of the ws, the applicant while reiterating the statement made above as well as in the OA begs to state that the entire action on the part of the respondents are based on arbitrariness and malafide and same depicts total non-application of mind.

11. That with regard to the statement made in paragraph 15 the applicant while reiterating the statement made above as well as in the OA begs to state that the entire action of the respondents are violative of the law laid down by the Hon'ble Apex Court as cited above and hence same is liable to be set aside and quashed.

12. That with regard to the statement made in paragraph 16 and 17 of the ws the applicant while reiterating the statement made above as well as in the OA begs to state that the policy framed by the respondents can not override the law laid down by the Hon'ble Apex Court and hence same is not sustainable in the eye of law.

13. That with regard to the statement made in paragraph 18 of the ws the applicant while reiterating the statement made

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above as well as in the OA begs to state that the case of Smt Ng Makan who was similarly placed like that of her has been considered by the respondents and now she is enjoying the benefit of regularisation where the present applicant is yet to get her absorption. By a similar order of appointment said Smt Ng Makan got her appointment and by the same order along with Ng Makan , the services of the applicant has been terminated and hence the applicant is entitled similar treatment from the respondents as has been extended to said Smt Ng Makan.

14. That with regard to the statement made in paragraph 19 to 21 the applicant denies the correctness of the same and begs to state that the stand taken by the respondents are per-se illegal and arbitrary and same is liable to be set aside and quashed.

VERIFICATION

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I, Smt Usham Kamila Devi., d/o Usham Rupachandra, aged about 35, resident of Awang Sekmet, Manipur, do hereby solemnly affirm and verify that the statements made in the paragraphs 1, 2, 4, 5, 9, 10, 11, 14, are true to my knowledge and those made in paragraphs 3, 6, 7, 8, 12, 13 are matters of records which I believe to be true and the rests are my humble submissions before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this verification on this the 28th day of Feb, 2001.

Usham Kamila Devi