

FORM NO. 4

(See Rule 42)

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

Review APPLICATION NO. 5/2000 OF 199
DA. 76/2000

Applicant(s) Union of India and ors.

Respondent(s) Sri Arjun Baruah.

Advocate for Applicant(s) Mr. B. Pathan
Adv. C. G. S.

Advocate for Respondent(s) Mr. M. Chandra.
Mrs. N. D. Goswami.

Notes of the Registry

Date

Order of the Tribunal

The heard and
Adv. C. G. S. has
by filed this
Review Application
against the order
dt. 25.2.2000
passed by this
Honble Tribunal.

Laid before
Honble Court for
further orders.

24.4.2000

mk
AS
24/4/2000

26.5.00

Issue notice on the opposite parties to show cause as to why the review application shall not be admitted. Returnable by four weeks.

List on 26.5.00 for filing of objection and further orders.

ba
Member

There is no bench today.
Adm 1-13-6.00

18/6
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Section Officer.

By

Notes of the Registry	Date	Order of the Tribunal
<p>27-4-2000</p> <p>Notice prepared and sent to D-Section for issuing of The same to the respondents through Regd. post with A/D. vide D.Nos 1263 Dtd-28.4.2000.</p> <p>29-5-2000</p> <p>① Service report are still awaited.</p> <p>3-6-2000</p> <p>Service report</p> <p>Service Completed.</p> <p>objection has not been filed.</p> <p>25.9.2000</p>	<p>13.6.00</p> <p>lm</p> <p>8-8-00</p> <p>12-9-00</p> <p>26.9.2000</p> <p>pg</p> <p>8.11.00</p> <p>lm</p> <p>17.11.00</p>	<p>Present: Hon'ble Mr.D.C.Verma, Judicial Member.</p> <p>Mr.B.C.Pathak, Addl.C.G.S.C. for the petitioner. Mr. M.Chanda learned counsel for the opposite party.</p> <p>This is a Review Application. This case will be decided before the Division Bench. List on 8.8.00 before Division Bench.</p> <p>Member(Judl)</p> <p>There is no Bench. Adm to 12-9-00</p> <p>no Bench. To be listed on 26.9.00.</p> <p>Present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman.</p> <p>Heard Mr B.C.Pathak, learned Addl. C.G.S.C for the petitioner. .</p> <p>List on 8.11.2000 for admission alongwith other connected cases.</p> <p>Vice-Chairman</p> <p>On the prayer of Mr.B.C.Pathak, learned Addl.C.G.S.C. case is adjourned to 17.11.00 for Admission.</p> <p>Vice-Chairman</p> <p>Mr B.C.pathak, learned Addl.C.G.S.C for the petitioner submitted that he has been instructed not to press the petition as the order of the Tribunal in O.A.142/2000 has already been given effect to and the opposite party/appl-icant is appointed to the post.</p>

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Notes of the Registry

Date

Order of the Tribunal

17.11.00

Review Application is accordingly
dismissed on withdrawal.


Vice-Chairman

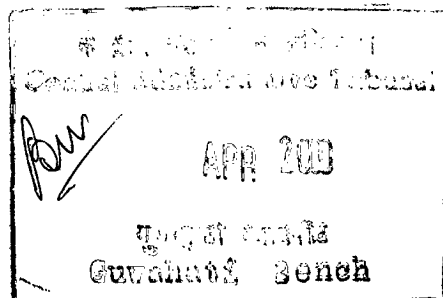
pg 1

23.11.2000

Copy of the order
has been sent to the
D/Sec for issuing the
order to the L/Advocates
for the party.

HS

Notes of the Registry	Date	Order of the Tribunal



In the Central Administrative Tribunal

Guwahati Bench ::: Guwahati.

Filed
7/4/2000
(R. S. Pathak) - 7/4/2000
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench, Guwahati

R.A. No. 5 /2000
In O.A. No. 76/2000

In the matter of :

A Review Application under section 22(3)(f) of the Central Administrative Tribunal Act, 1985 and R.17 of the CAT (Procedure) Rules 1987.

- And -

In the matter of :

Judgement and order dated 25.2.2000 ~~pa~~ passed by the Hon'ble Tribunal in O.A. No. 76/2000.

- And -

In the matter of :

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

..... Petitioner
Respondents.

Contd.....

Shri Arjun Baruah.

..... Opposite Party
Applicant.

The humble petition of the abovenamed
petitioners.

Most Respectfully Sheweth :

1. That the matter came up for admission on 25.2.2000 and the matter was disposed of on the date of admission in the light of the decision of the Hon'ble Supreme Court in Govt. of Tamil Nadu and another Vs G. Md. Ammiuddin and others (1997) 7 SCC 499 and directed that the respondents shall give the appointment immediately not later than two months from the date of receipt of the order. The respondents received the order on 24.3.2000. *The copy of the Judgment dt. 25.2.2000 is annexed as Annexure - R1*
2. That the order of the Hon'ble Tribunal to make the appointment immediately not later than two months from the date of receipt of the order has been made without any reference to the vacancy position. Moreover, the Govt. of India has imposed ban on fresh recruitment to post of R&E B, C and D group. But the respondents had no opportunity to place such ban order etc. as the matter was heard exparte. Thus being highly aggrieved by and dissatisfied with the aforesaid judgement and order dated 25.2.2000 the petitioners/ respondents prefer this Review Application on the following grounds amongst others.

The copy of the OM, NO. 7(3)/E (Coord)/99 dt. 5.8.99 annexed as Annexure - R2

Contd....

G R O U N D S

- (a) For that creation of ~~p~~ the posts or the occurrence of any vacancy is not in the hands of the respondents. That is the matter of policy decision at the Ministry level.
- (b) For that creation of new posts depends entirely on the Government policy and on such exigencies.
- (c) For that the respondent can not appoint/recruit any Group B, C and D employees due to existence of ban order on recruitment .

Copy of the O.M. No. 7(3)/E(Coord)/29

dated 5.8.99 is annexed as Annexure - R₂ .

Moreover the Registrar General of India has given direction to all the Directorates including the Directorate of Census operations, Guwahati under letter No. 120011/4/2000-Ad IV dated 14.2.2000 to ensure that all posts available for Census of India 2001 in Group 'C' 'D' are to be 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 Group 'C' and 'D' posts. But due to communication gap and inadvertent mistake, the respondents place this information and evidence at the time of the hearing of the matter. As the respondents were prevented from placing these vital

Contd.....

evidence at the time of argument, it is a fit case which merits review as provided by law.

Copy of the letters dated 14.2.2000 is annexed hereto and marked as Annexure - R₃.

- d. For that the presumption of the applicants that there are vacancies is not based on fact.

It is therefore, respectfully prayed that the Hon'ble Tribunal be pleased to admit the review application, call for the records, issue notices to the Opposite Party/ Applicant and after hearing the parties, review the impugned judgement and order dated 25.2.2000 and decide the O.A. in accordance with law.

And for this act of kindness the petitioners as in duty bound shall ever pray.

Beet

Affidavit

-5-

A F F I D A V I T

I, Shri P.K. Barman, Asstt. Director of Census Operation, Assam, Guwahati do hereby solemnly affirm and State as follows :

1. That I am acquainted with the facts and circumstances of the case.
2. That the statements made in this petition in paras (a), (b) and (c) are true to my knowledge and the statements made in paras 1, 2, (c) and (d) of the petition are true to my information and rest are my humble submission before this Hon'ble Tribunal.

And I put my hand hereto this affidavit on this 7
th day of April 2000.

Identified by me

B.C. Pathak
Advocate 7/4/2000

(B. C. Pathak
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench: Guwahati)

DEPONENT

স্বাক্ষরিত নিম্নলিখিত জনগণের পক্ষে : অসম
Assistant Director of Census Operation, Assam
গুৱাহাটী / Guwahati

Solemnly affirmed before me by the deponent Shri P.K. Barman who is identified by Shri B.C. Pathak, Advocate on this 7th day of April 2000.

M. Pathak
Advocate.

In The Central Administrative Tribunal

GUWAHATI BENCH, GUWAHATI

ORDER SHEET

APPLICATION NO. 76/2000

OF 199

Applicant(s)

Sree Arjun Baruah

Respondent(s)

Union of India and others

Advocate for Applicant(s)

Mr. M. Chandra

Mrs. N. D. Goswami

Advocate for Respondent(s)

Mr. G. N. Chakrabarty

C.G.S.C.

25.2.00

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

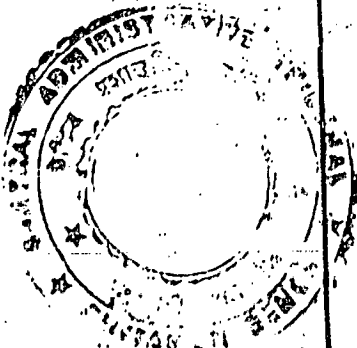
The learned counsel for the parties submit that the case may be disposed of at the admission stage itself.

The facts for the purpose of this case are :

The applicant is a retrenched Census employee in the office of the Director, Census Operations, Assam, Guwahati. He was applicant in O.A. No. 269/93 and by order dated 5.6.1998 the said application was disposed of indicating to the respondents to act in accordance with the decision of the

contd.....



Notes of the Registry	Date	Order of the Tribunal
<p>contd</p> 		<p>Hon'ble Supreme Court in Union of India - vs- Dinesh Kumar Saxena, reported in (1995) 29 ATG 585, when occasion for making appointment would arise in near future. The applicant approached the respondents, but no appointment had been made. However, he was directed to apply against any suitable vacancy that may occur in future. According to the applicant there are vacancies, but no appointment has been given to him.</p> <p>Mrs. Goswami submits that the case of the applicant is squarely covered by the decision of the Tribunal dated 20.1.2000 in O.A. No.415 of 1999, O.I. Singh - vs- Union of India and others. In this order it was held :</p> <p>"..... It is agreed by the counsel for the parties that as per the decision of the Apex Court in Government of Tamilnadu and another Vs. G.Mi.Ammendden and obbebsr (1999) 7 SCC 499, the applicant is entitled to get the appointment when the new vacancy will arise. As per the said decision the learned counsel for the parties submit that the appli- cant may be absorbed in the vacancy that will occur for Census of 2000, in a suitable post which he is entitled to following the judgment of the Apex Court..."</p> <p>In view of the above, following our decision in the aforesaid case we dispose of this application with direction to the respondents to absorb the applicant in vacancies that will occur for Census Operations of 2000 in suitable post for which the applicant is entitled to following the judgment of the Apex Court referred to above. The respondents shall make the appoint- ment immediately within a reasonable time after occurrence of the vacancies, not later than two months from the date of</p>

Sd/-MEMBER (ADM)

प्रस्तावित : प्र. नि. निधि

7/3/2000

Section Officer (J)

मानुषाग अतिथी (न्यायिक) तासा
Central Administrative Tribunal

संस्कृत-भाषा-परीक्षा

Guerra - G. 100-0

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9 SMO, 14 Annexure-R2

No. 7(B)/E(Coord)/99

Government of India

Ministry of Finance

Department of Expenditure

New Delhi, 5th August, 1999

Office Memorandum

Subject : Guidelines on Expenditure Management – fiscal prudence and austerity.

In continuation of this Department's O.M.No. 19(1)-E.II(A)/98 dt. 20th August, 1998 and 10th February, 1999 on the subject cited above, it has been decided to implement the following additional austerity measures with immediate effect:-

(1) Ban on creation of Plan and Non-Plan posts

The existing ban on creation of Non-Plan posts will continue and should be strictly enforced. Any unavoidable proposals for the creation of plan posts including Groups 'B', 'C' and 'D' posts shall continue to be referred to the Ministry of Finance (Department of Expenditure) for approval.

(2) Ban on filling up of vacant posts

Every Ministry/Department shall undertake a review of all the posts which are lying vacant in the Ministry/Department and in the Attached and Subordinate Offices, etc., in consultation with the Ministry of Finance (Deptt. of Expenditure). FAs will ensure that the review is completed in a time bound manner and full details of vacant posts in their respective Ministries etc., are available. Till the review is completed no vacant posts shall be filled up except with the approval of the Ministry of Finance (Department of Expenditure).

(3) 10% cut in posts

Those Ministries/Departments which have not fully implemented Government's decision to achieve 10% reduction in the number of posts (as on 1.1.92) shall implement the said decision immediately.

(4) Purchase of new vehicles

Purchase of new vehicles is banned until further orders. Exceptions will be allowed only for meeting the operational requirements of Defence, Central Para Military Forces, etc.

(5) 10% mandatory cut on Non-Plan non-salary expenditure

Every Ministry/Department shall make a 10% mandatory cut during the current year (1999-2000) on Non-Plan, non-salary expenditure, i.e., on TA, Office Expenses, POL, OTA, honorarium, etc. No re-appropriation of funds to augment

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these heads of expenditure would be allowed during the current financial year. Austerity must be reflected in functions organised by the Govt. of India (meetings, conferences, inaugurations, etc.) and in furnishing of offices/offices at residences. The expenditure limit prescribed for these purposes shall be strictly enforced.

(6) Foreign Travel

Foreign travel funded by the Govt. of India, unless it is absolutely unavoidable, shall not be undertaken till the end of the current financial year.

(7) New expenditure proposals

No new expenditure proposals will be entertained during the current financial year except those announced in the budget.

(8) Expenditure on existing schemes/programmes

Any unavoidable increase in expenditure on existing schemes/projects shall be met out of savings; no additional funds will be provided for this purpose. Proposals for inter State transfer of funds in respect of schemes covering all the States will not normally be entertained.

2. All existing instructions on austerity/economy in expenditure issued by the Ministry of Finance (Department of Expenditure) from time to time shall be strictly enforced.

3. Secretaries to the Govt. of India and Financial Advisers are requested to ensure strict compliance of the above instructions.

(C.M. Vasudey)
Secretary to the Govt. of India

To,

All Secretaries to the Govt. of India (By name)
All Heads of Public Sector Enterprises
All FAs (By name)

All Chief Secretaries of State Governments with the request that they may consider issuing similar instructions in respect of their State Governments.

No. 12011/4/2000-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

गृह मंत्रालय, प्लॉट 2/A, मंगलम रोड,
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.

गृह मंत्रालय, भारत सरकार
Director, Registrar General, India

18/2/2000

Yours faithfully,

(M. R. Singh)

Under Secretary to the Govt. of India