

FORM NO. 4

(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI.

ORDER SHEET

Contempt Petition APPLICATION NO. 37 OF 2001 (OA 388/2000)

APPLICANT (S) Mr. Abdul Hussain

RESPONDENT (S) Govt. of Assam

ADVOCATE FOR APPLICANT(S) Mr. M. Chandra, Mrs. N. D. Goswami

ADVOCATE FOR RESPONDENT(S) Cuse.

Notes of the Registry

dated

Order of the Tribunal

30.8.01

Issue notice at to why the contempt
petition shall not be initiated.
List on 4/10/01 for order.

Vice-Chairman

mb

4.10.01

Mr. A. K. Bharadwaj learned
counsel appearing on behalf of the
Respondents sought for time to file
reply. Prayer is allowed. Mr. B. C. Pathak
learned Addl. C. G. S. C. who is represen-
ting for Respondents No. 2 shall also
file reply. List on 19.11.01 for
hearing.

Member

Vice-Chairman

lm

W. S. Singh
14/8/2007
Section Officer

Notice prepared and sent to D/S
for Govt. of Assam Respondent No. 1 & 2
by Regd. A.D. vide D.M.O.
339253393 dt. 4/9/07

30/8/07

②

C.P. 37 of 2001 (O.A. 388/2000)

① Service report was still awaited.

By
3.16.01

19.11.01

Sri A.K.Bhardwaj, learned counsel on behalf of the respondents submits that he has received the copy of the rejoinder in the court today and prays for time to go through the same. The matter is accordingly adjourned to 21.12.2001. The name of Sri A.K.Bhardwaj, counsel for the respondents be shown in the list. The name of Sri a.K.Chowdhury, learned Addl. C.G.S.C. stands deleted. Show the name of Shri B.C.Pathak, learned Addl. C.G.S.C. for the respondents.

List the matter on 21.12.2001 for hearing.

13.11.2001

Counter reply on behalf of the Respondents has been submitted.

ICU Sharma
Member

[Signature]
Vice-Chairman

20.11.2001

trd

Rejoinder submitted on behalf of the petitioner against the counter reply submitted by the Contemners.

21.12.2001

Heard Mr M. Chanda, learned counsel for the applicant as well as Mr A.K. Bharadwaj and Mr B.C. Pathak, learned counsel for the respondents to some extent. In the course of hearing the learned counsel for the applicant stated that he wants to place fresh materials to show and establish that despite vacancies the applicant was not appointed. The applicant is allowed two weeks time to place the materials and the respondents shall thereafter get three weeks time to counter the same. List the matter on 4.2.2002 for further hearing.

The case is ready for hearings.

By
20.12.01

ICU Sharma
Member




[Signature]
Vice-Chairman

nk m

24.1.2002

Additional Rejoinder submitted by the petitioner against the counter reply submitted by the Contemners.

[Signature]

Notes of the Registry	Date	Order of the Tribunal
	4.2.02	<p>As per order dated 21.12.2001, the matter was posted for hearing. The applicant also filed its additional rejoinder. Mr. B.C.Pathak, learned Addl. C.G.S.C. has stated that they require some time to file reply in terms of the order, Since within the specified time they could not file the same, and considering the facts of the case, we allow further three weeks time to the respondents to file the reply, if any and the matter shall be listed for hearing on 5.3.2002. Further, adjournment shall not be granted to the respondents, on this ground.</p> <p style="text-align: center;">List on 5.3.2002 for hearing.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Vice-Chairman </div> </div>
<p><u>4.3.2002</u></p> <p>Reply to additional rejoinder submitted by the petitioner against the counter reply submitted by Respondents has been filed.</p> <p style="text-align: right;"></p> <p>Order dtd. 5/3/02 Communicated to Sri J.K. Banthia, Registrar General & Census Operations, Commissioner and Respondent No.2. Sri P. Hazarika, Director General of Census Operations, Assam by Regd. A/O.</p> <p style="text-align: center;">6/3/02</p> <p>D/N 751 W 752</p> <p style="text-align: center;">Dtd. 6/3/02.</p>	5.3.2002	<p>We have heard Mr.M.Chanda, learned counsel for the applicant and also Mr.B. C.Pathak, learned Addl.C.G.S.C for the respondents. Mr.Pathak prayed for time on the ground that Mr.A.K.Bharadwaj, learned Sr.C.G.S.C. who attended the C.P. on earlier occasions is not available today due to his preoccupation. Mr.N.C.Sen, Deputy Director of Census Operations sent instruction to Mr.Pathak for praying for adjournment.</p> <p>We do not find that it is a good cause for adjournment of the case, more so, the case was considered at length on earlier occasions in presence of the learned counsel for the parties. Considering the materials on record, we are prima facie of the opinion that it is a fit case to invoke contempt jurisdiction. The respondent No.1 Shri J.K.Banthia, Registrar General and Census Commissioner, India and respondent No.2 Shri P.Hazarika, Director of Census Operations, Assam are</p>


Contd...

Notes of the Registry	Date	Order of the Tribunal
		Contd..
	5.3.2002	<p>accordingly ordered to appear in person on 19.3.2002 on which date charges will be framed and read over and explained to them.</p> <p>List the case accordingly on 19.3.2002.</p> <p><i>Member</i> Member</p> <p><i>Vice-Chairman</i> Vice-Chairman</p>
	bb	
	19.3.02	<p>Heard Mr.B.K.Sharma, learned Sr. counsel and Mr.M.Chanda, learned counsel for the applicant and also Mr.K.N.Choudhury, Sr.Counsel assisted by Mr.A.K. Bhardwaj and Mr.B.C.Pathak, learned Addl. C.G.S.C. for the respondents.</p> <p>In terms of the Tribunal's order dated 5.3.2002 the respondent Mr.J.K. Banthia, Registrar General and Census Commissioner, India appeared in person. Mr.K.N.Choudhury, learned Sr.counsel for the contemner prays for some time to look into the matter afresh.</p> <p>Let the matter be listed on 2.4.2002. The personal appearance of the respondents are dispensed with for the time being.</p> <p><i>Member</i> Member</p> <p><i>Vice-Chairman</i> Vice-Chairman</p>
	bb	

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C.P.37 of 2001.(O.A.388/2000)

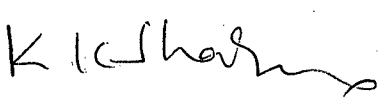

Notes of the Registry	Date	Order of the Tribunal
	19.3.2002	<p>Heard Mr.B.K.Sharma, learned Sr. counsel and Mr.M.Chanda, learned counsel for the applicant and also Mr.K.N.Choudhury, Sr. counsel assisted by Mr.A.K.Bhardwaj and Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents.</p> <p>In terms of the Tribunal's order dated 5.3.2002 the respondents Mr.J.K.Banthia, Registrar General and Census Commissioner, India and Mr.P.Hazarika, Director of Census Operations, Assam appeared in person. Mr.K.N.Choudhury, learned Sr. counsel for the contemner prays for some time to look into the matter afresh.</p> <p>Let the matter be listed on 2.4.2002. The personal appearance of the respondents are dispensed with for the time being.</p> <p style="text-align: right;"> Vice-Chairman</p>

bb

C.P. 37/2001

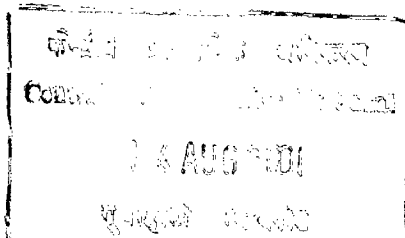
Notes of the Registry	Date	Order of the Tribunal
<p>The case is ready for hearing.</p> <p><u>3</u> 2.5.02.</p>	2.4.02	<p>Heard Mr. A.K.Bhardwaj, Mr. B.C.Das and Mr. B.C.Pathak, learned Addl. C.G.S.C. for the Respondents and also Mr. M.Chanda, learned counsel for the applicant.</p> <p>Mr. A.K.Bhardwaj, learned counsel for the Respondents submits that the Respondents have made the ^{in appearance} representation today. He also states that it is not convenient to come again for this case before 3rd May, 2002. After hearing learned counsel for the parties the next date of hearing is fixed on 3.5.2002.</p> <p>List on 3.5.2002 for hearing.</p> <p><i>K. Usha</i> Member</p>

mb

Notes of the Registry	Date	Order of the Tribunal
	3.5.02	<p>present : The Hon'ble Mr Justice D.N. Chowdhury, Vice-Chairman</p> <p>The Hon'ble Mr K.K.Sharma, Member(A).</p> <p>Heard Mr M.Chanda, learned counsel for the applicant and Mr K.N.Choudhury, learned senior counsel assisted by Mr A.K.Bharwdwaj, learned counsel appearing for the respondents.</p> <p>In course of the hearing of the Contempt proceeding it transpires that there is possibility of accommodating the applicant in a temporary vacancy in the Census department. In that circumstances we are not inclined to pursue the matter. It is expected that the authority shall take necessary steps in this regard.</p> <p>With this the Contempt Petition stands closed.</p> <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <div style="text-align: center;">  Member </div> <div style="text-align: center;">  Vice-Chairman </div> </div>

Notes of the Registry	Date	Order of the Tribunal
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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI**

Contempt Petition No. 37 /2001

In O.A. No. 388 of 2000

In the matter of :

Md. Abul Hussain

.....Petitioner

-Versus-

Union of India & others.

.....Respondents

-AND-

In the matter of :

**An Application under Section 17 of the
Administrative Tribunals Act, 1985 praying for
initiation of a Contempt Proceeding against the
alleged contemnors for non compliance of the
judgment and order dated 20-03-2001 passed in
O.A. No.388/2000.**

-AND-

In the matter of :

Md. Abul Hussain

Son of Md. Azizur Rahman

Village Dampur

P.O. & P.S. Hajo

Dist. Kamrup, Assam

..Petitioner

*Filed by me applicant
through N.D. Goswami
Advocate.
12/8/2001*

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-versus-

1. Shri J.K. Banthia
Registrar General and Census
Commissioner, India,
2 A, Mansingh Road
New Delhi-110 011

AKR

2. Shri P. Hazarika
Director of Census Operations,
Assam, G.S.Road,
Guwahati
District-Kamrup, Assam.

.....Alleged contemnners

The Petitioner above named most humbly and respectfully sheweth :-

1. That your applicant being highly aggrieved due to his retrenchment by the Census department and his non absorption in the vacant post of Draughtsman created in the office of the alleged contemner No.2 on temporary basis for census works, 2001 despite his eligibility and earlier experience of similar works in the same office, approached this Hon'ble Tribunal through O.A. No. 388 of 2000 praying for similar direction granted by this Hon'ble Tribunal in O.A. No. 415 of 1999 dated 20.1.2000 for his absorption in the post of Draughtsman or equivalent. This Hon'ble tribunal after hearing the arguments of the contesting parties, was pleased to pass its order on

20.3.2001 in O.A. No. 388/2000 with the following directions to the respondents/alleged contemnors.

" we dispose of this application with a direction to the respondents to absorb the applicants in vacancies that would occur for census operations 2000-2001 in suitable post commensurating with their clarifications. The respondents are directed to make necessary appointments within a reasonable time on arising of such vacancies.

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

From above, it is abundantly clear that the Hon'ble Tribunal directed/ordered the alleged contemnors to appoint the applicants in a suitable vacancy in the Census Operation of 2000-2001.

A copy of the judgment and order passed on 20.3.2001 in O.A. No. 388/2000 is annexed hereto and marked as Annexure-I.

2. That your applicant thereafter submitted an application to the alleged contemner no.2 praying for his appointment in the office of the alleged contemner in terms of the order dated 20.3.2001 of the Hon'ble tribunal, preferably in the vacant post of Draughtsman. Copy of the application dated 04.05.2001 of the aforesaid applicant Md. Abul Hussain is enclosed herewith wherein the applicant clearly indicated the existing vacancies and prayed for his absorption by enclosing a copy of the judgment and order dated 20.3.2001 in O.A. No. 388/2000 along with his application.

A copy of the application dated 04.05.2001 is annexed hereto and marked as Annexure-II.

3. That it is stated that there are 3 (three) posts of Draughtsman still lying vacant in connection with Census Operations 2000-2001 and in addition, there are 11 (eleven) vacant posts of Computers in the office of the respondent No.2 and the applicant prayed for his absorption in one of those vacant posts, preferably the post of Draughtsman.
4. That the alleged contemnors, even after a lapse of more than 4 months after the order has been passed by the Hon'ble Tribunal, have not implemented the order although there are vacant posts and the applicant had approached time and again for implementation of the order of the Hon'ble tribunal.
5. That the alleged contemnors deliberately and wilfully did not take any initiative for implementation of the judgment and order dated 23.3.2001 of this Hon'ble Tribunal which amounts to Contempt of Court. Therefore the Hon'ble Tribunal be pleased to initiate a Contempt Proceeding against the alleged contemnors for wilful violation of the order of the Hon'ble Tribunal dated 20.3.2001.
6. That it is a fit case for the Hon'ble Tribunal for initiation of a Contempt Proceeding against the alleged contemnors for wilful and deliberate non-compliance of the judgment and order dated 20.3.2001 passed in O.A.No. 388/2000.
7. That this application is made bona fide and for the ends of justice.

Under the facts and circumstances stated above, the Hon'ble Tribunal be pleased to initiate contempt proceeding against the alleged contemnors for wilful non-compliance of the order dated 20.03.2001 passed in O.A. No.388/2000 and further be pleased to impose punishment upon the alleged contemnors in accordance with law and further be pleased

to pass any such other order or orders as deem fit and proper by the Hon'ble Tribunal.

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

AFFIDAVIT

I, Md. Abul Hussain, Son of Md. Azizur Rahman, aged about 33 years, resident of village Dampur, P.O. & P.S. Hajo, in the district of Kamrup Assam do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1-7 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 20.03.2001 passed in O.A. No.388/2000.

And I sign this Affidavit on this13th day of August, 2001.

Identified by
Sujit Kumar Ghosh
Advocate's Clerk

Md. Abul Hussain

Deponent

Solemnly affirmed and declared before me by the deponent who is identified by.....*Sujit Kumar Ghosh* Advocate on this the13th day of August, 2001.

Sujit
Advocate
Central Administrative Tribunal
Guwahati

DRAFT CHARGE

Laid down before the Hon'ble Central Administrative Tribunal, Guwahati for initiating a contempt proceeding against the alleged contemnors/Respondents for wilful and deliberate non-compliance of order of the Hon'ble Tribunal dated 20.03.2001 passed in O.A. No.388/2000 and further be pleased to impose punishment upon the alleged Contemnors/Respondents for wilful and deliberate non-compliance of order dated 20.03..2001 passed in O.A. No.388/2000.

20/3/01

Annexure-I

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No. 388 of 2000

Date of order : this the 20th day of March, 2001

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

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

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

..Applicants.

By Advocate Mr. A.K.Chowdhury

-versus-

1. Union of India
Through the Secretary to the
Government of India
Ministry of Home Affairs, North Block,
New Delhi-2.
2. Registrar General of Census Operation,
2A Mansingh Road,
New Delhi.

*certified to be true copy
Sujit Shaha
Advocate*

9/4/01
2 posts
Dr. J. S. B. B. B.
Vacant. 16

3. Director of Census Operations,
Ministry of Home Affairs,
Assam, G.S.Road,
Guwahati-7.

4. Sri M.R.Das,
Director of Census Operations,
Ministry of Home Affairs,
Assam, G.S.Road, Guwahati-7.

20/3/01

..Respondents.

By Advocate Mr. B.C. Pathak, Addl. C.G.s.C.

ORDER

CHOWDHURY J. (V.C.)

The applicants are three in number who are similarly situated retrenched employee of the Census department seeking for a similar direction granted by this Bench in O.A. No. 415 of 1999 (O.I. Singh Vs. Union of India & Others) dated 20.1.2000. In the aforesaid decision the Tribunal in the light of the decision rendered by the Supreme Court in the case of Govt. of Tamilnadu and another Vs. G. Md. Armeenudeen reported in 7 SCC 4999, ordered for consideration for absorption of the aforementioned applicant in vacancy that may occur in the 2000-2001 in suitable post commensurating to his qualification in terms of the judgment of the Apex Court.

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

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

Sd/ Vice-Chairman
Sd- Member (Admn)

certified to be true copy
Sd/ J. S. B. B. B.
Advocate

occurs for census ops.
ON 21/11/01 of Sh. M. B. B. B.
Vacant

Dr. J. S. B. B. B.

P 37 Rejoice

2000/

10/11.

No. Vacancies

-18-

13

Annexure-II

To
The director of Census Operation, Assam
Guwahati,
Ulubari-7.

Dated Guwahati the 4th May, 2001.

Sub : Prayer for immediate implementation of the Judgment and order dated 20.3.2001 passed in O.A. No. 388/2000.

Respected Sir,

I like to draw your kind attention to the subject cited above and further beg to state that the undersigned approached the Hon'ble Tribunal through Original Application No. 388/2000 for appointment of vacant suitable post preferably in the post of 'Draughtsman prayed before the Hon'ble Tribunal the matter came for final hearing on 20.3.2001 and the Hon'ble tribunal was pleased to dispose of the case with a direction to make necessary appointment in suitable post in vacancies that would occur for Census Operations 2000-2001 within a reasonable time on arising of such vacancies.

It is categorically submitted that there are 4 (four) regular vacancies and 3 (Three) vacancies of Draughtsman, in connection with 2001 census are still lying vacant apart from 11 (Eleven) regular available post of Computer. Therefore, you are requested to issue necessary appointments preferably the vacant post of Draughtsman immediately. It is further requested not to fill up the aforesaid vacancies by way of Deputation in order to avoid implementation of this judgment.

Your decision regarding my appointment kindly be communicated to the undersigned to the following address.

Copy of the Judgment dated 20.3.2001 is enclosed for your ready reference.

Enclo : As above

Yours faithfully,

Sd/- Md. Abul Hussain

(ABUL HUSSAIN)

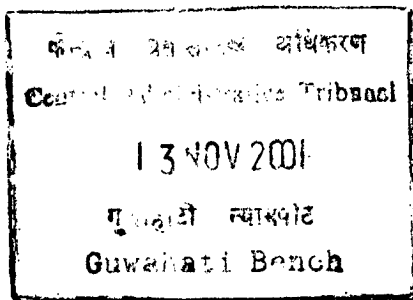
Ex. Draughtsman

C/o Baharul Islam

Advocate

Gandhi Basti, Guwahti-3.

*Certified to be true copy
Sijil Hash
Advocate*



Filed by
B. C. Pathak
12/11/01
(B. C. Pathak)
Addl. Central Govt. Standing Counsel
Central Administrative Tribunal
Guwahati Bench : Guwahati

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH: GUWAHATI

C.P.NO.37/2001
IN OA NO.388/2000

IN THE MATTER OF:

MD. Abul Hussain and OthersPetitioners

-Vs-

Shri J.K. Banthia and others Respondents

COUNTER REPLY ON BEHALF OF THE RESPONDENTS;

Most respectfully sheweth:

1. I, P. Hazarika, Director of Census Operations, Assam, G.S.Road, Guwahati, District Kamrup, Assam do hereby solemnly state that in my said capacity I am familiar with the facts involved in the present case and I am also competent to file the present counter reply on behalf of the respondents. I may also submit that I am implicated as Respondent No.2 in the contempt petition.

2. It is respectfully submitted as follows:

(a) The answering Respondents have deep and high regard for the orders of the Hon'ble Tribunal as well as to the judicial system. They cannot even think to act contrary to the order, directions, observations or expressions falling from this Hon'ble Tribunal. If any act of omissions or commissions has carried any impression before this Hon'ble Tribunal that the Respondents could not honour the order of this Hon'ble Tribunal, the Respondents apologise for the same. It is however, most respectfully submitted that the Respondents have

not disobeyed the order dated 20th March, 2001 passed by the Hon'ble Tribunal in O.A.No.388/2000. Even in their contempt petition as well as also in draft charges, the petitioners have also failed to pinpoint even a single action or inaction of the respondents which according to them amounts to contempt of court. It is humbly submitted that along with the contempt petition the petitioners have enclosed draft charges and when the wholesale purpose of filing the draft charges is to categorically pin point the action/inaction of the alleged contemner which amounts to contempt of court, the petitioners have failed to do so. The draft charge is absolutely vague and defeat the purpose of filing the same. In fact, the petitioners have deliberately filed the weigh Draft charges as they are aware that the respondents have not committed any act which constitute contempt. The civil contempt petition instituted by the petitioners is absolutely frivolous. It may be humbly submitted that not to talk of wilful disobedience of the order of the Hon'ble Court in the present case the respondents have not even disobeyed the order of this Hon'ble Tribunal.

It may be respectfully submitted that the petitioner herein the present contempt petition had also instituted OA No.270/93 before this Hon'ble Tribunal. In the said OA they had claimed that they were appointed as Draftsman temporarily against the post created specially in connection with 1991 Census work, which was to be abolished on completion of the work and the petitioners were to be retrenched. The petitioners had accepted that they were appointed as Draftsman. The said OA was disposed of by order dated 5th June, 1998. Thereafter the petitioners themselves instituted Civil Rule No. 2924/98 before the Hon'ble High Court praying as follows:

" Under the above circumstances it is therefore prayed that your Lordships would be pleased to admit the petition issues a Rule calling upon the Respondents to show cause as to why the impugned judgement dt. 5.6.98 passed in original application No.270/93 by the CAT, Guwahati Bench shall

not be set aside and quashed and also to show cause as to why the impugned termination letter dt. 21.12.93 passed by the Director of Census Operations, Guwahati sought to terminate the services of the petitioners with effect from 31.12.93 (Annexure No.1) shall not be set aside and quashed and also to show cause as to why the respondents shall not be directed to allow the petitioners to continue in their services as Draftsman and not to give effect to the impugned termination letter dt. 21.12.93 and also to show cause as to why the respondents shall not be directed to regularise/appoint the services of the petitioners either as Draftsman, L.D.C. or as Assistant Compiler lying vacant under the respondent No.3 and to give them all service benefit and after perusal of the records, causes shown if any, and upon hearing the parties, your Lordship may be pleased to make the rule absolute or to pass such other proper order or directions as your Lordship may deem fit and proper so as to grant adequate relief to the petitioners for the interest of justice -AND- Further, it is also prayed that pending disposal of the rule, your Lordship would be pleased to stay the operation of the impugned judgement and order dt. 5.6.98 passed in OA N.270/93 by the CAT, Guwahati Bench and direct the respondent to allow the petitioners to continue in their services as Draftsman under respondent No.3 as before in the interest of justice."

Thus as it appears from the above, the petitioners have raised the controversy before the High Court and the same is still pending adjudication. In such situation the petitioners cannot institute civil contempt proceedings against the respondents, alleging disobedience of order of the Hon'ble Tribunal. The respondents respectfully submit so because the petitioners cannot blow hot and cold at the same time. They cannot at the same time challenge the order of the Hon'ble Tribunal in the High Court and allege disobedience of another order of Hon'ble Tribunal having the similar effect.

That the respondents crave leave of this Hon'ble Tribunal in submitting that the order dated 20th March, 2001 passed by this Hon'ble Tribunal is conditional one. For convenience the order is reproduced below:

" The applicants are three in number who are similarly situated retrenched employee of the census department seeking for a similar direction granted by this Bench in OA No.415 of 1999 (O.I.Singh -vs- Union of India and others) dt. 20.1.2000. In the aforesaid decision the tribunal in the light of the decision rendered by the Supreme Court in the case of Govt. of Tamil Nadu and another -Vs- G.Md.Ameenuddin reported in 7 SCC 4999, ordered for consideration for absorption of the aforementioned applicant in vacancy that may occur in the 2000-2001 in suitable post commensurating to his qualification in terms of the judgement of the Appex court.

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

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

The simple reading of the aforementioned order makes it clear that the petitioners were to be absorbed in vacancies to be occurred for census operation 2000-2001, and they were to be absorbed in suitable posts commensurating with their qualifications. It is respectfully submitted that as per order of the Hon'ble Tribunal (I) there should have been vacancies for census operation, (ii) the petitioners should have been suitable for the vacant post, (iii) the posts should be commensurating with their qualification and (iv)

necessary appointments were to be made within reasonable time on arising of such vacancies. It is most respectfully submitted that "commensurating with their qualification" means that petitioners can be considered for a post for which they fulfil the condition mentioned in the Recruitment Rule. ✓

Now as far as census operation vacancy is concerned, no census post of Draftsman is created for the census operation 2000-2001. Secondly no census operation vacancy of Draftsman is there and thirdly there is no other census post/vacancy for the which the petitioners are suitable. As far as post of Senior Draftsman is concerned, the said is filled by 100% by promotion. So when the post is filled by 100% promotion and there is no element of direct recruitment, the question of petitioners being qualified for the post does not arise. ✓

There again there is no substantive or regular vacancy of Draftsman is available. The 2 posts which are alleged vacant are not in fact vacant. The two draftsman namely (1) Smt. Biju Mahanta, (2) Smt. Renu Mazundar are having their lien on the said posts. So when regularly selected incumbents have lien on the above posts the petitioners allegation that the posts are vacant is not true. Furthermore, the direction of the Hon'ble Tribunal for absorbing the petitioners against the vacancy of Draftsman created for census operation 2001. So when the order passed by the Hon'ble Tribunal is conditional and the precondition for absorbing the petitioners is not fulfilled the respondents cannot be said to have disobeyed the order of the Honble Tribunal wilfully.

It would also be pertinent to submit here that otherwise also as far as the vacancy of other nature (such as regular/adhoc/temporary/resultant vacancies) than the census operation is concerned, it is respectfully submitted that in the Misc. Case No.323/2000, filed by the Petitioners only Hon'ble High Court has taken a view that the Hon'ble Court can surely not compel the

Director to consider the case of the Petitioners for adhoc appointments. The order passed by the Hon'ble High Court is reproduced below:

"This is an application for staying the circular dated 23.2.2000 which has been annexed with Misc. Case as Annexure-4. In other words, the writ petitioners are wanting this court to pass an order to the effect that they should be considered for recruitment as Draftsman in the department of census. After going through the averments made in the application and the annexures filed along with the application, and after hearing the learned counsel Mr.D.Sur, CGSC and Mr.A.H.Saikia, we are of the considered view that the application does not merit acceptance. The circular contemplates the filling up of some posts as shown in Annexure-1 by suitable officials from Central/State Govt. department for appointment by transfer or deputation and that too on ad hoc basis up to 2001. If the Director of Census Operation is wanting some persons on deputation, this Court can surely not compel the Director to consider the case of the petitioners for ad hoc appointment. The case of the petitioners is neither covered by the direction issued by the Tribunal in the order impugned in the main writ petition or by any judicial pronouncement.

Finding no merit in the application the same is dismissed."

Here the answering respondent humbly submits that in view of the Law laid down on the subject by the Hon'ble Supreme Court in catena of cases a contempt is constituted only when there is wilful disobedience of the order of the Hon'ble Tribunal.

In this connection abstract from decision of Hon'ble Supreme Court are reproduced below:

"In the case of Indian Airports Employees' Union V. Ranjan Chatterjee, (1999) 2 SCC 537:199 SCC (L&S) 558: AIR 1999 SC 880: 1999 Cri LJ 1332: (1999) 1 LLJ 661 the Hon'ble Supreme Court held that "Disobedience of orders of the court, in order to amount to "civil contempt" under S.2(b) of the Contempt of Courts Act, 1971 must be "wilful". Proof of mere disobedience is not sufficient. Where there is no deliberate flouting of court orders but a mere misinterpretation of executive instructions, it would not be a case of civil contempt.

Rival contentions raised in this case involve interpretation of the order of the Supreme Court, the notification and other relevant documents. In this contempt case, it is not being decided whether the interpretation put forward by the respondents or the petitioners is correct. The question has to be decided in appropriate proceedings. For the purpose of contempt case, it is sufficient to say that the non-absorption of six sweepers was bonafide and was based on an interpretation of the above orders and notification etc. and cannot be said to amount to "willful disobedience" of the orders of the court .

The contempt case is dismissed without costs without expressing any opinion on the right of the petitioners to seek regularisation. It is open to the petitioners to resort to appropriate remedies in accordance with law. Indian Airports Employees' Union Vs. Ranjan Chatterjee,(1999)2 cc 537: 1999 SCC (L&S) 558:AIR 1999 SC 880: 1999 Cri LJ 1332: (1999) 1 LLJ 661."

In another case Kabildeo Prasad Sah Vs. State of Bihar, (1999) 7 SCC 569:1999 SCC (L&S)1357 it is held that "A petitioner who complains breach of court order must allege deliberate or contumacious disobedience - On facts held, no case of contempt was made out when there was genuine dispute as to whether the appellants satisfied the conditions subject to which court directed payment of salary"

Yet in another case State of Orissa Vs. Gaura Chandra Panda, 1999 SCC (L&S) 784 the Supreme Court held that - where there was genuine difference of opinion between rival parties as to whether workman whom the appellant Union was representing, were covered by the relief granted by the court and resolution of this difference involved interpretation of court order, notification and other relevant document, held non-implementation of the court order in the case of those workmen did not amount to contempt.

Therefore in view of the above legal position on the subject, the respondents respectfully submit before this Hon'ble Tribunal that the order of the Hon'ble Tribunal dated 20.3.2001 passed in OA No.388/2000 has not been disobeyed wilfully in any manner. In fact, the petitioners also could not pin point any act of omission or commission of the respondents which could amount to contempt of court. Since no vacancy (either census operation or regular) are available, the question of absorbing the petitioners does not arise. The vacancies which the petitioners have alleged are in fact the posts on which two incumbents (1) Smt. Biju Mahanta and (2) Smt. Renu Mazumdar are having their lien and are regular posts thus cannot be called vacant. Moreover, when there is a wide scope for interpretation as well as decision on various terms and concept, the petitioners cannot allege before the Hon'ble Court that the order of this hon'ble Tribunal is willfully disobeyed. In the present case serious and disputed question which needed interpretations are involved. Such questions are: (1) whether any vacancy is there, (2) whether any vacancy of Draftsman is there, (3) whether any

census post of Draftsman is vacant, (iv) whether petitioners can be considered for absorption as Senior Draftsman. Having considered the entire matter and having understood the order of the Hon'ble Tribunal, the respondents have come to the conclusion that they have not wilfully disobeyed the order of the Hon'ble Tribunal in any manner. The respondents further submit in the event of any census operation post of Draftsman being available the petitioners could be considered for absorption. Further, when there was no Census operation post of Draftsman is created, question of absorbing the petitioners does not arise and this had been in due regard of the order passed by the Hon'ble Tribunal in OA No.388/2000:

In all fairness, it is most respectfully submitted that from the order of the Hon'ble Tribunal dated 20.3.2001, passed in O.A. No.388/2000, the respondents had preferred a Civil Writ Petition No.7128/2001 before the Hon'ble High Court of Guwahati. In the said C.W.P., the Hon'ble High Court has observed as follows:-

".....However, the authority shall consider the matter in accordance with the decision of the Supreme Court in the case of Govt. of Tamil Nadu and Anr. Vs. G.Mohd. Ammenudeen & Ors. Rendered in case No.Civil Appeal 81 of 1998. This disposed of the writ application."

Parawise reply:

1. The contents of the para 1 of the CP are misconceived and misleading. It is submitted that as far as the question of retrenchment is concerned, the same is not adjudicated by the Hon'ble Tribunal in OA No.388/2001.

As far as vacant post of Draftsman is concerned it is submitted that no post of Draftsman is created for census work. Thus when the precondition mentioned in the order of the Hon'ble Tribunal are not fulfilled, the question of consequent for absorption the petitioners did not arise.

2. That as far as the order of the Hon'ble Tribunal is concerned the same is a matter of record. It is also humbly submitted in para 1 of contempt petition the petitioners themselves have admitted that the order of the Hon'ble Tribunal was to appoint the applicants in suitable vacancy in the census operation 2000-2001. It is submitted that as the claim of the petitioners was for the post of Draftsman and no post of draftsman in census operation 2000-2001 is created, the question for absorbing the petitioners did not arise.

It may be pertinent to submit here that the application dt. 4th May/2001 made by one of the petitioners Shri Md. Abul Hussain has been suitably replied. It may also be relevant to submit here that the application was submitted only by Petitioner No.1 and petitioners No.2 and 3 did not make such application. The said application was made only by petitioner No.1. In addition to above it may also be submitted that as per announcement made in the Parliament the Hon'ble Finance Minister, the Government have recently issued guidelines to the effect that any regular Group A, B, C & D posts in government office shall not be made without prior approval of the competent authorities. A copy of the relevant instruction of the Govt. on the subject is enclosed as Annexure II.

3. That in para 2 of the the contempt petition the petitioner is again misleading the Hon'ble Court, thus the same is denied. It is submitted that the order of the Hon'ble Tribunal was to absorb the petitioners in suitable post created for census operation 2000-2001. It is submitted that no post

of Draftsman is created for census operation 2000-2001. It is submitted that otherwise also no vacancy of Draftsman is there. On two substantive and permanent posts of Draftsman which are alleged to be vacant (1) Smt. Biju Mahanta and (2) Smt. Renu Mazumdar are having their lien. It is submitted that the two incumbents in the post of Draftsman are temporarily promoted to Senior Draftsman. It may also be submitted that the Hon'ble Court has directed for absorption of the petitioners against the census operation posts of 2000-2001. The petitioners cannot compel the respondents to absorb them even in such cases where there is internal reshuffling of staff. ✓

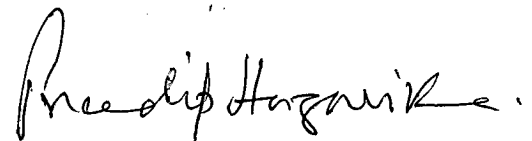
4. That the Hon'ble Tribunal had not prescribed any time limit for implementing the order. Hon'ble Tribunal had directed for absorption of the petitioners on fulfillment of certain condition and when these conditions have not yet been fulfilled the petitioners cannot be absorbed. And non-absorption cannot be treated disobedience of order of Hon'ble Court.
5. That the contents of the para 5 of the CP are incorrect, wrong, false and far from truth and the same is denied. It is humbly submitted that the respondents have not disobeyed the order of the Hon'ble Tribunal as there is no post of Draftsman created for census operations 2000-2001 nor there is any other census post suitable for them for absorption.
6. That the contents of the Para 6 of the CP is again misleading and hence the same are denied. It is submitted that the contempt petition is absolutely frivolous and is filed in abuse to the process of law. There is no case for initiating contempt proceeding against the respondents. It is also submitted that the respondents have preferred Civil Petition before the High Court from the order dated 20.3.2001 passed in OA No. 388/2000

and in view of the law laid down of the Hon'ble Supreme Court in the matter of Modern Food Industries -vs- Sachidanand Dass, 1995 SUPP (4) SCC 465, when CWCP as well as CMF are pending with the Hon'ble High Court, contempt proceeding pending before this Hon'ble Court may be deferred till final disposal of the said CWCP and CMF.

7. The CP is misconceived and devoid of merit and deserves to be dismissed with cost.

Verification:

Verified in Guwahati on that the contents of the counterreply are true and correct to the best of my knowledge derived from records.



Respondent

That the statements made in paragraphs 1, 3 to 7 of this reply affidavit are true to my knowledge and belief, those made in paragraphs 2 being the matter of records are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this affidavit on this 12th day of November, 2001 at Guwahati.

Identified by me

Prof. Pathak
12/11/01
A. B. Pathak

Pradip Hengrik
Deponent

Solemnly affirmed and declared before me by the deponent who is identified by Shri B.C. Pathak, Advocate on this 12th day of November, 2001 at Guwahati.

Dilip Baruah
12.11.2001
Magistrate/Advocate.



सत्यमेव जयते

फोन : 547396

Phone : 547396

Dr.S.K. Baruah
ADCO

भारत सरकार
गृह मंत्रालय
निदेशक, जनगणना कार्य, असम
गुवाहाटी शिलांग रोड, उलुवारी, गुवाहाटी - 781007
Government of India
Ministry of Home Affairs
Director of Census Operations, Assam
G.S.Road, Ulubari, Guwahati - 781007

To

Md. Abul Hussain
C/O R. Islam,
Gandhi Basti,
Guwahati-3.

Dated 3.10.2001.

Sub: Reply to the representation dated 4th May,2001 addressed to the Director of Census Operations, Assam, Guwahati-7.

Sir,

With reference to your representation dated 4th May,2001 made by you referring to the order of Hon'ble CAT dated 20.3.2001 passed in OA No.388/2000 you are informed as follows:

(I) In the aforesaid mentioned order by Hon'ble CAT has directed as follows:

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

(II) That as per your representation you could not be considered because there is no vacancy for Census Operations 2000-2001 but according to your seniority you will be absorbed in suitable post on your qualifications.

That at one point of time you ^{were} engaged against Census post of D'man, thus you could be considered for such post only. However, at this stage, no post of D'man has been created for Census Operations 2000-2001. Furthermore you are not considered for any other post created for Census Operation.

Your representation dated 4th May,2001 in which you have stated that the 4 regular vacancies of D'man in connection with 2001 Census are still lying vacant apart from 11 regular post of Computer is absolutely misconceived and misleading. It is informed to you that no post of D'man of Census Operation 2000-2001 has been created in this Directorate. Order of the Hon'ble Tribunal was to consider you for your absorption on the vacancies in the post of Census Operation for which you could be suitable. Your representation has been considered very carefully and it is found that in the order of the Hon'ble Tribunal you could be considered only against the vacancies in the post created of Census Operation provided you are suitable for the same. As you are appointed for the post of D'man only created for Census Operation,1991 you could be considered against such post only but there were no such post created and so you could not be

considered. As far as the posts of Computer are concerned, the same are filled up only as per the instruction on the subject. Furthermore, as far as the posts of Computer created for Census Operation are concerned, the Hon'ble High Court has ordered that the same have to be filled according to the seniority of Computers which were against for earlier Census operations. However, for such post you are not suitable also as you do not fulfil the requisite qualification for the same.

It is informed to you that your case has been considered with due respect to the Hon'ble Tribunal and it has been found that no post of Draftsman for Census Operation has been created for 2001 Census and hence you could not be absorbed. Your representation is disposed of accordingly.

Yours faithfully,

S. R. Baruah
3/11/00

(Dr. S.R. Baruah)

Asstt. Director of Census
Operations, Assam, Guwahati.



Annexure-II 37 (6)

-16-

भारत के महारजिस्ट्रार का कार्यालय
भारत सरकार, गृह मंत्रालय, 2ए मन्सिंह रोड, नई दिल्ली 110 011
OFFICE OF THE REGISTRAR GENERAL, INDIA
(Government of India, Ministry of Home Affairs)
2A MANSINGH ROAD, NEW DELHI 110 011

Ref. No.: A-19011/1/2001-Ad.II

Date: June 2, 2001

ENDORESEMENT

A copy of the under mentioned paper(s) is forwarded herewith for information/necessary action to the following:-

Encl As above.

A-19011/1/2001-Ad.II

1. All Census Directorates in States/U.T.s.
2. All Heads of Divisions including Language Division, RG's office.
3. General Secretary, All India Association, C/o Directorate of Census Operations Orissa, PO Bhui Nagar, Bhubaneswar - 751022.
4. DD(C), J.D(J), DD(AKS), DD(SP), Accounts Officer
5. P.S. to R.G.I./P.S. to J.R.G.I./P.S. to DRG(C&I)
6. All Section/Cells/Devison in R.G.I. office Hqrs.
7. Order file.

(D.S. SAINI)
UNDER SECRETARY

List of papers forwarded

<u>S.No.</u>	<u>Name of the Ministry</u>	<u>No. and Date</u>	<u>Subject</u>
1.	Government of India Ministry of Personnel, Public Grievances & Pensions Department of Personnel & Training.	No.2/8/2001-PIC dated 16.5.2001	Optimisation of Direct Recruitment of civilian posts.

भारत के जनगणना
Director of Census Operations

n / Day No. 4595

Date. 9/7/01

स्थान :: कुवाहाटी

आज्ञा

- 17 -

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No. 13011/10/2001- Finance-II
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, - 29-5-2001.

ENDORSEMENT

A copy of the under mentioned paper(s) is forwarded herewith for information/necessary action to the following:-

- Signature
1/6
- 5/7/2001
1-6-2001
- JR
1. All attached/Subordinates Offices of MHA/DOL/DOJ/DOJ&KA (5 copies each and 20 spare copies to Pr.A.O., MHA).
 2. All Statutory Organisations/Commissions/Committees/Panels etc. under MHA//DOL/DOJ/DOJ&KA(5 copies each).
 3. All UT Administrations (Finance Secretaries).
 4. Ministry of Home Affairs-All Officers/Sections.
 5. Deptt. of Official Languages-All Officers/Sections.
 6. Deptt. of Justice-All Officers/sections.
 7. Department of Jammu & Kashmir Affairs - All Officers/Sections.
 8. All Zonal Councils.
 9. 20 spare copies for Finance-II Section.
 10. I , DOP&PW, DOAR&PG- All attached/Subordinate offices.

Pages 1-3 /Correspondence to be typed


(Harish Chander)
AFA(Fin-II)

List of Papers forwarded:-

Sl No	Name of the Ministry	No. and Date	Subject.
1	Ministry of Personnel, Public Grievances & Pensions. Dept of Personnel & Training.	No. 218/2001. P.C. dtd 16.5.2001.	Optimization of direct-recruitment to civilian posts-

275/224/01/
4X6

SHARISON GILL
4/6/2001

USC 1112

768/FA(H)/01 FA MMT -18- 28/5/2001 1793/2001-2002 35

No.2/8/2001-PIC
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, the 16 May, 2001.

OFFICE MEMORANDUM

21 May 2001
Subject: Optimisation of direct recruitment to civilian posts.

The Finance Minister while presenting the Budget for 2001-2002 has stated that "all requirements of recruitment will be scrutinised to ensure that fresh recruitment is limited to 1 per cent of total civilian staff strength. As about 3 per cent of staff retire every year, this will reduce the manpower by 2 per cent per annum achieving a reduction of 10 per cent in five years as announced by the Prime Minister".

1.2 The Expenditure Reforms Commission had also considered the issue and had recommended that each Ministry/Department may formulate Annual Direct Recruitment Plans through the mechanism of Screening Committees.

2.1 All Ministries/Departments are accordingly requested to prepare Annual Direct Recruitment Plans covering the requirements of all cadres, whether managed by that Ministry/Department itself, or managed by the Department of Personnel & Training, etc. The task of preparing the Annual Recruitment Plan will be undertaken in each Ministry/Department by a Screening Committee headed by the Secretary of that Ministry/Department with the Financial Adviser as a Member and JS(Admn.) of the Department as Member Secretary. The Committee would also have one senior representative each of the Department of Personnel & Training and the Department of Expenditure. While the Annual Recruitment Plans for vacancies in Groups 'B', 'C' and 'D' could be cleared by this Committee itself, in the case of Group 'A' Services, the Annual Recruitment Plan would be cleared by a Committee headed by Cabinet Secretary with Secretary of the Department concerned, Secretary(DOPT) and Secretary(Expenditure) as Members.

Contd./-----

Pl. Minister
2001
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2.2 While preparing the Annual Recruitment Plans, the concerned Screening Committees would ensure that direct recruitment does not in any case exceed 1% of the total sanctioned strength of the Department. Since about 3% of staff retire every year, this would translate into only 1/3rd of the direct recruitment vacancies occurring in each year being filled up. Accordingly, direct recruitment would be limited to 1/3rd of the direct recruitment vacancies arising in the year subject to a further ceiling that this does not exceed 1% of the total sanctioned strength of the Department. While examining the vacancies to be filled up, the functional needs of the organisation would be critically examined so that there is flexibility in filling up vacancies in various cadres depending upon their relative functional need. To amplify, in case an organisation needs certain posts to be filled up for safety/security/operational considerations, a corresponding reduction in direct recruitment in other cadres of the organisation may be done with a view to restricting the overall direct recruitment to one-third of vacancies meant for direct recruitment subject to the condition that the total vacancies proposed for filling up should be within the 1% ceiling. The remaining vacancies meant for direct recruitment which are not cleared by the Screening Committees will not be filled up by promotion or otherwise and these posts will stand abolished.

2.3 While the Annual Recruitment Plan would have to be prepared immediately for vacancies anticipated in 2001-02, the issue of filling up of direct recruitment vacancies existing on the date of issue of these orders, which are less than one year old and for which recruitment action has not yet been finalised, may also be critically reviewed by Ministries/Departments and placed before the Screening Committees for action as at para 2.2 above.

2.4 The vacancies finally cleared by the Screening Committees will be filled up duly applying the rules for reservation, handicapped, compassionate quotas thereon. Further, administrative Ministries/Departments/Units would obtain beforehand a No Objection Certificate from the Surplus Cell of the Department of Personnel & Training/Director General, Employment and Training that suitable personnel are not available for appointment against the posts meant for direct recruitment and only

Contd./—

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thereafter place indents for Direct Recruitment. Recruiting agencies would also not accept any indents which are not accompanied by a certificate indicating that the same has been cleared by the concerned Screening Committee and that suitable personnel are not available with the Surplus Cell.

3. The other modes of recruitment (including that of 'promotion') prescribed in the Recruitment Rules/Service Rules would, however, continue to be adhered to as per the provisions of the notified Recruitment Rules/Service Rules.

4. The provisions of this Office Memorandum would be applicable to all Central Government Ministries/Departments/organisations including Ministry of Railways, Department of Posts, Department of Telecom, autonomous bodies - wholly or partly financed by the Government, statutory corporations/bodies, civilians in Defence and non-combatant posts in Para Military Forces.

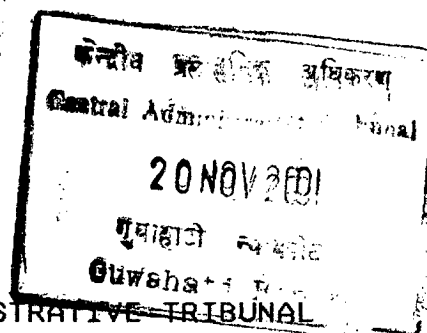
5. All Ministries/Departments are requested to circulate the orders to their attached and subordinate offices, autonomous bodies, etc. under their administrative control. Secretaries of administrative Ministries/Departments may ensure that action based on these orders is taken immediately.

6. Hindi version will follow.

Harinder Singh
Joint Secretary to the Govt. of India

To,

1. All Ministries/Departments to the Government of India
(as per standard distribution list)
2. Chairman, RRB, SSC, UPSC and C&AG.
3. All Financial Advisers (By name)



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 37 2001

388
In O.A. No. 324 of 199

In the matter of :

Md. Abul Hussain & Ors
.....Petitioner

-Versus-

Sri J.K. Bhantia & Ors.
.....Alleged Contemnors

-AND-

In the matter of :

Rejoinder submitted on behalf of the
petitioners against the counter reply
submitted by the alleged contemnors.

The humble petitioners above named most respectfully begs to state as under :

1. That the contention raised in para 2 (a) of the counter reply is absolutely false, misleading and not based on records rather an attempt is made by the alleged contemnors/respondents suppressing the material facts to mislead this Hon'ble Tribunal on the alleged ground that there is no vacancy of draftsman and there is no specific direction passed by the Hon'ble Tribunal for absorption/appointment of the applicants in O.A.No. 388 of 2000. A mere reading of the direction of the Hon'ble Tribunal in its judgment and order dated 20.3.2001, it is abundantly clear that the Hon'ble Tribunal specifically directed the respondents to absorb the applicants in the vacancies "that would occur" for Census Operation for 2000-2001 in the suitable post commensurating with their qualifications. The respondents were also directed to make necessary appointment within a reasonable time on

Filed by the applicant
through advocate
G. N. Chakravarty on
19-11-2001

arising of such vacancies. Therefore it cannot be said that there is no specific order passed by the Hon'ble Tribunal and the contention of the alleged contemnors/respondents is also not correct to the extent that the order of the Hon'ble Tribunal is conditional. It is categorically denied that non compliance of the judgment and order dated 20.3.2001 passed by the Hon'ble Tribunal in O.A. No. 388 of 2000 has no bearing with the judgment and order dated 5.6.1998 passed in O.A. No. 270 of 1993.

It is submitted that the services of the present petitioners have been terminated in pursuance of the judgment and order dated 5.6.1998 passed in O.A. No. 270 of 1993, although there was an observation/direction to consider the cases of the applicants for absorption against the direct recruitment vacancies. But the said claim of the applicants were deliberately rejected by the respondents on there representation long back in total violation of the order of the Hon'ble Tribunal.

It is categorically stated that this Contempt Petition has been filed by the petitioners for deliberate non-compliance of the order of the Hon'ble Tribunal passed in O.A. NO. 388/2000. Therefore, contention of the alleged contemnors/respondents that the contempt petition is not maintainable on the plea that the petitioners have challenged the order of the Hon'ble Tribunal dated 5.6.1998 passed in O.A.No. 270 of 1993 is quite irrelevant.

It is pertinent to mention here that the contempt petitioners in their Original application No. 388 of 2000 categorically submitted that they have already instructed their Lawyer to withdraw the Writ Petition bearing Civil Rule No. 2924/98 pending before the Hon'ble High Court as such the allegation of the alleged contemnors/respondents is baseless and bogus.

It is relevant to mention here that the Hon'ble High Court while considering the admission of the Writ petition bearing Civil Rule No.

2924/98 specifically observed that the pendency of the Writ Petition shall not be a bar for the respondents to consider the absorption of the petitioners against the available vacancies, which would be evident from the Hon'ble High Court's order dated 17.6.1998 and also would be evident from the order dated 2.7.1999 passed in Misc. Case No. 747/99 (Civil Rule No. 2924/98).

It is also relevant to mention here that in Misc. Case No. 323/2000 in Civil Rule No. 2924/98 the Hon'ble High Court while dismissed the said Misc. Case which was preferred before the Hon'ble High Court by the contempt petitioners for staying the operation of the Circular No. DCO(E)50/90/2172 dated 23/24.2.2000 whereby certain post in connection with 2001 Census is sought to be filled up by transfer on deputation basis. The Hon'ble High Court did not interfere with the circular dated 23.2.2000 on the ground that the Misc. case of the petitioners is neither covered by a direction issued by the Tribunal in the order impugned in the Main Writ Petition or by a judicial pronouncement.

But the instant case of the contempt petitioner is squarely covered by the direction passed by the Hon'ble Tribunal in O.A. No. 388 of 2000 as such the deliberate violation of the said order on the alleged ground that there is no post available for draftsman in the office of the Director of Census Operation, Assam, suppressing the material fact is amount to violation of the Hon'ble Tribunal's order dated 20.3.2001 and the alleged contemnors are also liable for perjury for submission of deliberate false statement with a well-thought manner. A mere reading of the circular issued under letter No. DCO(E)50/99/2172 dated 23/24.2.2000 it would be evident that the Director of the Census Operation, Assam issued the aforesaid circulars dated 23/24.2.2000 for filling up certain vacancies for 2001 census as categorically stated in para 3 of the said circular on ad hoc/deputation basis. In the said circular among other vacancies the post of draftsman in the pay scale of Rs. 4500-7000 has also been included, therefore the contention of the

alleged contemnners/respondents, that there is no vacancy of draftsman available is totally false and misleading, as such conduct of the alleged contemnners/respondents in the matter of implementation of the order of the Hon'ble Tribunal order dated 20.3.2000 cannot be said to be bona fide and it further appears that they have suppressed the material fact before the Hon'ble Tribunal with a sole intention to mislead the Hon'ble Tribunal.

A copy of the circular dated 23/24.2.2000, Hon'ble High Court's orders dated 17.6.1998, 2.7.1999 and 30.3.2000 are annexed hereto and marked as **Annexures III, IV, V, and VI** respectively.

It is further stated that posts of draftsman also available in the office of the Director, Census Operation on regular basis which would be evident from the letter bearing No. DC0(E)43/75/Pt I/4484 dated 9.4.2001 addressed to the Registrar General of India, New Delhi where the Director forwarded the quarterly return ending 31.3.2001 on staff strength, in the enclosed pro forma in respect of the office of the Director, Census Operation, Assam, where it would be evident that two temporary posts of draftsman are lying vacant in the pay scale of Rs. 5000-8000 and one post of Senior Draftsman also lying vacant in the pay scale of Rs. 5500-9000. Therefore contention of the alleged contemnners/respondents that there is no vacancy of draftsman available in the office of the Director, Census Operation, Assam is contradictory to their statement made in the counter reply to the contempt petition submitted by the alleged contemnners/respondents. Therefore it appears that all through the alleged contemnners made an attempt to mislead the Hon'ble Tribunal with a deliberate intention to avoid the implementation of the order of the Hon'ble Tribunal dated 20.03.2001 passed in O.A. No. 388 of 2000. It is also pertinent to mention here that the question of having lien in the post of draftsman who were promoted to the cadre of Senior Draftsman is irrelevant, more particularly in view of the fact that the post of Draftsman is sought to be filled up by the alleged

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contemners through deputation basis vide their circular dated 23/24.2.2000.

A copy of the letter dated 9.4.2001 is annexed hereto and the same is marked as **Annexure--VII.**

2. That the contempt petitioners categorically deny the statements made in paragraphs 1,2, and 3 of parawise reply and further submitted that the contention of the alleged contemners/respondents that there is no vacancy of draftsman available are totally false, misleading and contradictory to their own records. It is a deliberate attempt on the part of the alleged contemners to mislead the Hon'ble Tribunal in order to avoid to implement the order of the Hon'ble Tribunal dated 20.3.2001 passed in O.A. No. 388/2000. It would further be evident from circular dated 23/24.2.2000 that the post of Draftsman were advertised for completion of time bound work of 2001 census by the office of the Director, Census Operation Assam. Therefore it cannot be said that no post of Draftsman is created for the purpose of 2001 Census. The order of the Department of Personnel and Training dated 16.5.2001 referred at Annexure-2 to the counter reply of the alleged contemners is on different context and the same is not relevant in the instant case of the petitioners. It is further stated that the letter dated 3.10.2001 addressed to the applicant after receipt of the contempt notice, the same has been issued to cover up the lapses of the alleged contemners/respondents. The letter dated 3.10.2001 which has been issued in order to make an eye wash. The contention of which is contrary to their own records so far vacancy position is concerned. It is categorically stated that the post of Draftsman circulated through circular dated 23/24.2.2000 are still lying vacant as because no application was received by the Director of Census Operation for filling up the post of Draftsman as advertised through aforesaid Notification. As such there is no difficulty on the part of the respondents to accommodate the applicant in the vacant post of Draftsman available with the office of the Director, Census Operation, Guwahati.

3. That your petitioners categorically deny the statements made in paragraphs 4,5,6 and 7 of the counter reply of the alleged contemnors and further begs to state that the present contempt petitioners have served in the capacity of Draftsman for about eight years in the office of the Director, Census Operation. Therefore it cannot be said that the petitioners are not suitable for the post of Draftsman available with the office of the Director, Census Operation. It is also stated that the full context of the order of the Hon'ble High Court passed in the Writ Petition No. 7128/2001 has not been made available before this Hon'ble Tribunal but it appears from their own statement that the Hon'ble High Court also directed the respondents to consider the case of the contempt petitioners in accordance with the decision of the Supreme Court in the case of Government of Tamilnadu and Another Vs. G.Md. Ammenudden rendered in the case No. Civil Appeal No.81 of 1998. As such the alleged contemnors/respondents are duty bound to implement the order of the Hon'ble Tribunal dated 20.3.2001 passed in O.A.No. 388 of 2000.

In the facts and circumstances stated above, it is a fit case for the Hon'ble Tribunal for initiating a contempt proceeding against the alleged contemnors/respondents for deliberate violation of the Hon'ble Tribunal's Order dated 20.3.2001 passed in O.A. 388/2000 and also for submission of deliberate misleading and false statement regarding vacancy position of draftsman. It is humbly submitted that the Hon'ble Tribunal be pleased to initiate a contempt proceeding after hearing the respondents and also be pleased to impose appropriate punishment for violation of Hon'ble Tribunal's order referred to above.

AFFIDAVIT

I, Md. Abul Hussain, Son of Md. Azizur Rahman,, aged about 33 years, resident of village Dampur, P.O. & P.S. Hajo, in the district of Kamrup, Assam, do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statement made in para 1, 2 and 3 are true to my knowledge and belief and I have not suppressed any material fact.
3. That this Affidavit is made for the purpose of filing contempt petition before the Hon'ble Central Administrative Tribunal, Guwahati Bench for non-compliance of the Hon'ble Tribunal's order dated 20.3.2001 passed in O.A. No.388/2000.

And I sign this Affidavit on this 19th day of November 2001.

Identified by

Advocate

Md. Abul Hussain

Solemnly affirmed and declared before me by the deponent who is identified by Sri...*K. K. Biswas*... Advocate on this the ...19th... day of ...Nov.... 2001.

K. K. Biswas
Advocate 19.11.2001

মজনগণনা
Assam Census

NO.DCO(E)50/99/2172

भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA

কামোলায়ন মনসম মজনগণনা নিদেষক

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM

মি. এস. রোড, উলুবারী, গুৱাহাটী-781007

G. S. ROAD, ULUBARI, GUWAHATI-781007

दिनांक गुवाहाटी

Dated Guwahati

the 23rd Feb. 2000

C I R C U L A R

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

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

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

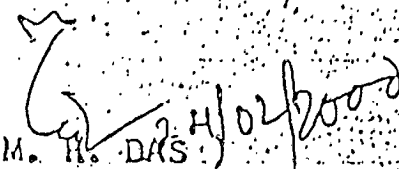
The period of deputation will be initially for a period upto 28.2.2001 which may be extended for further period.

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

Memo No.DCO(E)50/99/2173-222 Date : 23/2/2000

- Copy to :
- 1) The Registrar General, India, 2/A Mansingh Road, New Delhi-110011 with reference to his letter No. 12011/4/2000-Ad.IV dt. 14.2.2000.
 - 2) All DCO's State/UTs and Deputy Registrar General (L) Calcutta.
 - 3) The Deputy Director (Advertising), Directorate of Advertising and visual publicity, PTI Building, Sansad Marg, New Delhi-11 for publication in the Employment News.
 - 4) The Circulation-cum-Advertising Manager, Employment News, East Block-IV, R. K. Puram, New Delhi.

- 24 - - 9. ub
- : 2 : -
- 5) All Head of offices, Central Govt.
 - 6) All Heads of State Govt. offices to the Govt. of Assam
 - 7) The Secretary (GAD), Dispur, Guwahati.
 - 8) The Secretary to the Govt. of Assam (SAD), Dispur.
 - 9) The Commissioners of Divisions Govt. of Assam.
 - 10) All Deputy Commissioners.
 - 11) All Sub-Divisional Officers (Civil).
 - 12) Notice Board.


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

-10- 25- 35- W

ANNEXURE - I

Name of the post and
pay scale

Upper Division Clerk
Rs. 4000-100-6000/- p.m.

Eligibility condition

(1) Officials Central/State Govt. holding analogous posts in the pay scale of Rs. 1200-2040/- (pre-revised) or with at least 8 years regular service in the LDC/Typist posts carrying pay scales of Rs. 950-1500/- (pre-revised) and possessing the following qualifications.

(ii) Degree of a recognised University or equivalent.

Officials from Central/State survey offices.

(i) Matriculation or equivalent.

(ii) Diploma in commercial or Fine Art or Draftmanship from a recognised institution with some knowledge in drawing, maps, charts and book covers.

Desirable

At least one year experience as draftsman cum Artist.

Officials of Central/State Govts. holding analogous post or at least 5 (five) years regular service in posts carrying pay scale of Rs. 950-1500/- (pre-revised) and possessing the following qualifications.

(i) Degree of a recognised University or equivalent.

(ii) Two years experience of Proof Reading and technical marking.

Proof Reader

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

contd.....2

Computer

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

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

Essential : Degree with Economics
or statistics or Mathematics as a
subject from any recognised univer-
sity.

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

Lower Division Clerk

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

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

(i) Matriculation or equivalent.

(ii) Minimum speed of 30 words per
minute in typewriting (in
English).

Sr. Technical Asstt. (Ptg.)

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

Officers of the Central/State Govt.

(i) holding analogous post or with
at least three years regular
service in posts carrying pay
scale of Rs. 1400-2300/- (pre-
revised) and

(ii) having five years experience
in printing work, proof reading
and technical marking.

Sr. Stenographer

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

Officials of the Central Govt./
State Government

(a) (i) holding analogous post on
regular basis.

(ii) With five years regular
service in the grade of
Rs. 1200-2040/- (pre-revised).

(b) Possessing a speed of 100 words
per minute in Stenography
(English/Hindi).

Contd.....3

-12-

-27-
-27-

- : 3 : -

21

Asstt. Compiler

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

Officials of the Central/State Govt.

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

or

Experience in coding and punching in an office or firm having mechanical tabulation equipment.

Peon

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

Officials of the Central/State Govt.

Middle school standard pass from a recognised school.

- 13 - 28 - 28 - 9

ANNEXURE - III

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

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

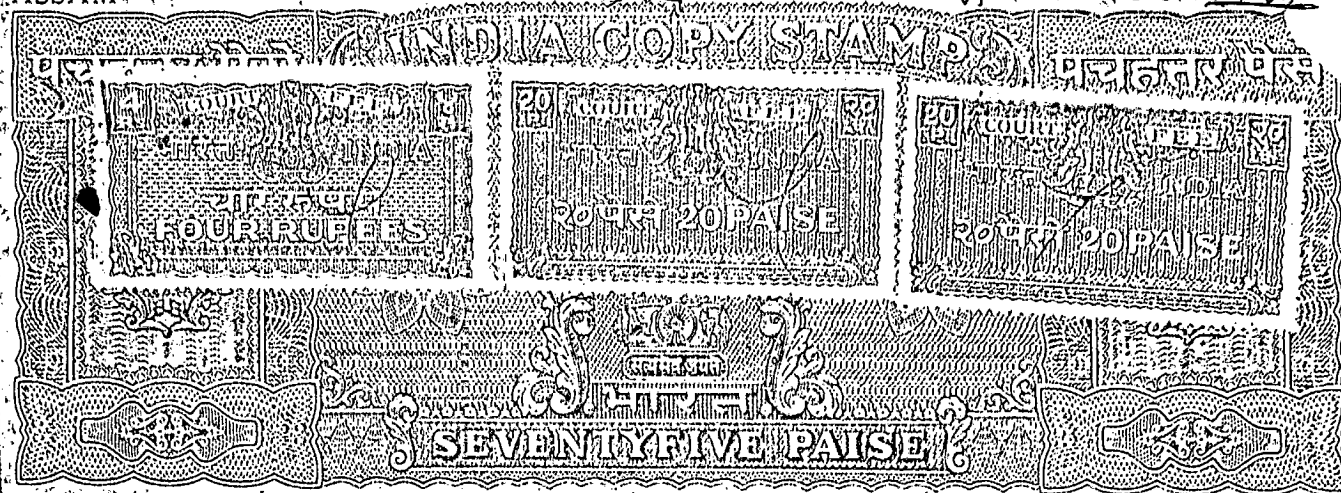
Signature of applicant

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

1. It is certified that the particulars furnished by the official are correct.

2. It is certified that no disciplinary case is pending or contemplated against applicant and he/she is clear from vigilance angle.

Head of office



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
19.6.98	23.6.98	23.6.98	23.6.98	23.6.98

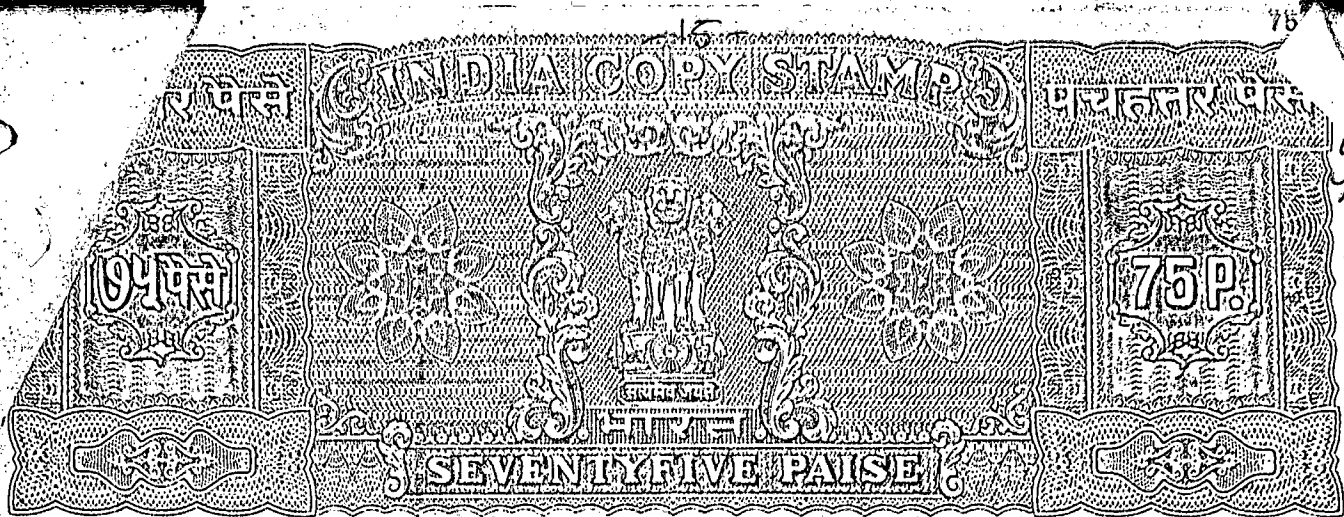
IN THE GAUHATI HIGH COURT.

(THE HIGH COURT OF ASSAM : NAGALAND : MIZORAM :
MANIPUR : TRIPURA : MIZORAM AND ARUNACHAL PRADESH.)

CIVIL RULE NO. 2924 OF 1998.

1. Md. Abul Hussain,
S/O. Md. Azizur Rahman,
Vill: Dampur, P.O. & P.S. Hajo,
District- Kamrup.
2. Sri Rabin Kalita,
S/O. Late Krishna Kalita,
Village- Chachamukh, P.O. Kulhati,
P.S.- Hajo, District- Kamrup.
3. Sri Nalpendra Das,
son of Sri Durga Kanta Das,
Resident of Amingaon, P.O. &
P.S. Amingaon, District- Kamrup.

... Petitioners.



प्रतिनिधि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिनिधि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिनिधि देने की तारीख Date of making over the copy to the applicant.

-: 2 :-

- Versus -

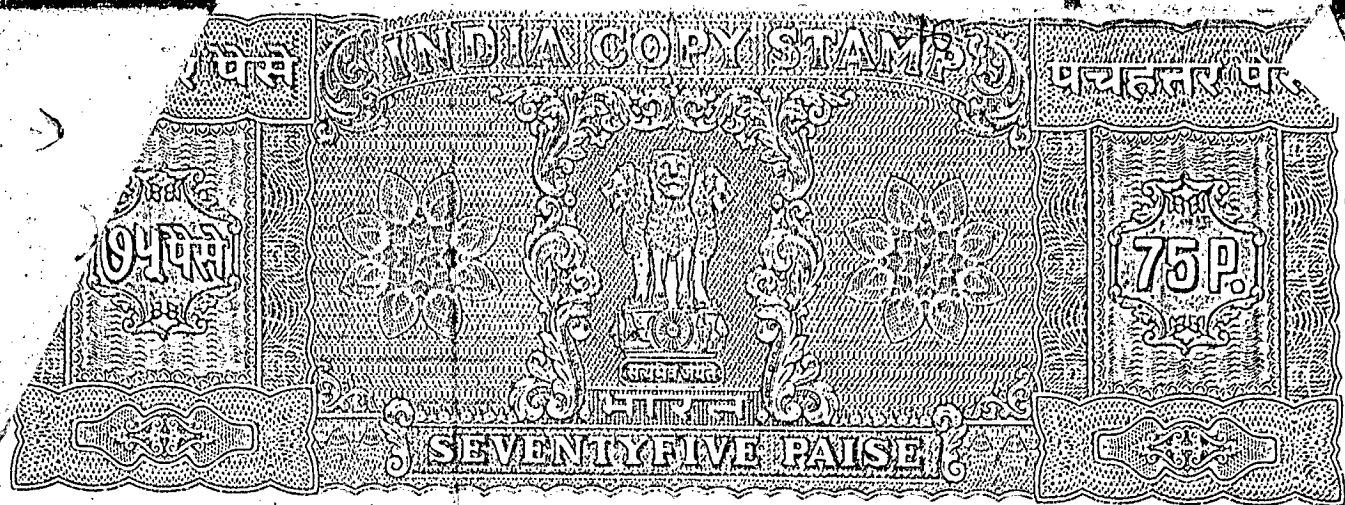
1. Union of India,
represented by the Secretary to the
Govt. of India, Ministry of Home,
New Delhi.
2. The Registrar General of India,
Census Operation,
2/A, Man Singh Road, New Delhi-11.
3. The Director of Census Operation,
Assam, Ulubari, Guwahati- 7.
4. The Assistant Director of Census
Operation,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

.... Respondents.

PRESENT :

THE HON'BLE MR. JUSTICE D N CHOWDHURY
THE HON'BLE MR. JUSTICE D. BISWAS.

Contd....3



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोलियो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

-: 3 :-

For the Petitioners :- Mr.A.S.Choudhury,
Mr.R.Majumdar,
Mr. I.Hussain,
Mr. S.Seal, Advocates.

For the Respondents:-C.G.&C.

17.6.98 : ORDER :

Heard Mr.A.S.Choudhury, the learned
Counsel for the Petitioners. Also heard
Mr.K P Sama, the learned Addl.Central Govt.
Standing Counsel, appearing on behalf of
Respondents 1 - 4.

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

Contd....4



प्रतिलिपि के लिए आवेदन की तारीख Date of application for the copy.	स्टाम्प और फोटो की अपेक्षित संख्या सूचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोटो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.

-: 4 :-

17.6.98 (Contd.) Rule is made returnable by three weeks.

Call for the records.

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

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

Sd/- D.Biswas,
JUDGE.

Sd/- D.N.Chowdhury,
JUDGE.

Filed in 23/6/98
Read by 23/6/98
Inspected by 23/6/98

Certified to be true
Shyamal Bejborua
Superintendent (Copy) 23/6/98
GAUHATI HIGH COURT
Enforced U/B Act 1 of 1
23/6/98

तारीख Date of application for the copy.	रॉक्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and folios.	अवधि, स्टाम्प और फोलियो देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
25-8-99	26-8-99	26-8-99	26-8-99	26-8-99

IN THE GAUHATI HIGH COURT

(High Court of Assam Nagaland, Meghalaya, Manipur, Tripura,
Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from Misc. Case
(In Civil Rule 2924/98)

No. 747 of 19 99

Md. Abdul Hussain & Ors.

Appellant
Petitioner

Versus

Union of India & Ors.

Respondent
Opposite-Party

Appellant
For
Petitioner

Mr. A.S. Choudhary
Mr. R. Misra
Mr. I. Hussain
Ms. S. S. S. S.

Respondent
For
Opposite-Party

Adv. Mr. A. Mahapatra Adv.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4

Q

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
	2.7.99		<p><u>PRESENT :</u></p> <p>THE HON'BLE THE CHIEF JUSTICE</p> <p>THE HON'BLE MR. JUSTICE AGARWAL</p>

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

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

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

This Misc. Case is disposed of accordingly.

Misc case disposed of. Self PG. Appointed Self-Brijesh Kumar
to J. Chief Justice

Dimish Ch Goswami
26/8/99

26/8/99

MISC CASE NO. 323/2000 IN CIVIL RULE NO. 2924 OF 1998

MD. ABDUL HUSSAIN & ORS.

UNION OF INDIA & ORS.

DA 270/93
- Vs. -
..... Assam
Terminals
Petitioners.
Respondents.
P R E S E N T
THE HON'BLE MR JUSTICE MC JAIN

&
THE HON'BLE MR JUSTICE D BISWAS

For the Petitioners

For the Respondents
Date of Order

: Mr AS Choudhury, Mr R Majumdar, Mr I
Hussain & Mr S Seal, Advs.
: CGSC.
: 30.03.2000.

Q R D E R

This is an application for staying the circular dated 23.2.2000 which has been annexed with Misc. Case as Annexure-4. In other words, the writ petitioners are wanting this court to pass an order to the effect that they should be considered for recruitment as Draftsman in the department of Census. After going through the averments made in the application and the annexures filed along with the application, and after hearing the learned counsel Mr D Sur, CGSC and Mr Ali Saikia, we are of the considered view that the application does not merit acceptance. The circular contemplates the filling up of some posts as shown in Annexure-1 by suitable officials from Central/State Govt. department for appointment by transfer or deputation and that too on ad hoc basis up to 2001. If the Director of Census Operation is wanting some persons on deputation, this court can surely not compel the Director to consider the case of the petitioners for ad hoc appointment. The case of the petitioners is neither covered by the direction issued by the Tribunal in the order impugned in the main writ petition or by any judicial pronouncement.

Finding no merit in the application the same is dismissed.

SD/- D BISWAS,
Judge.

SD/- MC JAIN,
Judge.

Memo No.

RM Dated

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

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

By Order,

Assistant Registrar (D).



सत्यमेव जयते

No.DCO(E)45/75/pc.I/4484

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA

कार्यालय असम जनगणना निदेशक

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM

जि. एस. रोड, उलुबारी, गुवाहाटी - 781007

G.S. ROAD, ULUBARI, GUWAHATI - 781007

फोन } Director : 547396 (o)
Phone } 302121 (R)
Off. supdt. : 526954
Fax : 0361 - 547398

दिनांक गुवाहाटी

Dated Guwahati 9th April/2001.

To

The Registrar General, India,
2/A Mansingh Road,
New Delhi - 110011.

Subj. Quarterly return of staff position
as on 31.3.2001.

Sir,

I have the honour to send herewith the quarterly return ending 31.3.2001 on staff strength in the enclosed proforma in respect of this directorate for favour of your necessary action.

Encls : As above.

Yours faithfully

(DR. S. K. BARUAH)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM ::::: GUWAHATI.

22

Quarterly return of staff of the office of the Director or Census Operations, Assam
for the quarter ending 31-3-2021

Sl. No.	Name of post	Scale of pay	Sanction post			
			Pmt.	Temp.	Filled	Vacant
	2	3	4	5	6	7
1	D.C.O. Assam	-		1	1	-
2	Jt. D.C.O.	10000 - 15200/-		2	-	2
3	D7 Director	10000 - 13500/-	1	1	2	-
4	Asstt Director	9000 - 13500/-	4	1	4	1
5	Asstt. Director (Hindi)	8000 - 13500/-		1	1	-
6	Office Supdt	5500 - 9000/-		2	2	-
7	Confidential Asstt.	5500 - 9000/-		1	1	-
8	Assistant	5000 - 8000/-	1	4	5	-
9	U.D.C.	4000 - 6000/-	3	3	5	1
10	L.D.C.	3050 - 4590/-	5		5	
11	Sr. Hindi Translator	5500 - 9000/-	1	-	-	1
12	Sr. Stenographer	5000 - 8000/-		1	1	-
13	Asstt. Director (EDP)	8000 - 13500/-		1	-	1
			15	18	27	6

Quarterly return of staff of the office of the Director of Census Operations, Assam
for the quarter ending 31-3-2001

Sl. No.	Name of post	Scale of pay	Sanctioned post			
			Pmt.	Temp.	Filled	Vacant
	2	3	4	5	6	7
14.	Geostatian operator	3050-4590/-	1	-	1	-
15.	Zuffrey.	2610-3540/-	3	1	4	-
16.	Peon	2550-3200/-	8	-	8	-
17.	Chaukidar	2550-3200/-	1	5	6	-
18.	Investigative	5500-9000/-	1	9	8	2
19.	Sr. Supervisor	5500-9000/-	-	2	2	-
20.	Jr. Supervisor	5000-8000/-	-	6	6	-
21.	DEO (B)	4500-7000/-	-	45	32	13
22.	D.E.O (A)	4000-6000/-	-	14	13	1
23.	Research Officer	8000-13500/-	-	1	1	-
24.	Sr. Geographer	6500-10500/-	-	1	1	-
25.	Cartographer	5500-9000/-	1	-	1	-
26.	Sr. Drawing Asstt	6500-10,500/-	-	1	1	-
			30	103	111	22

Quarterly return of staff of the office of the Director of Census Operations, Assam
for the quarter ending 31-3-2001

Sl. No.	Name of post	Scale of pay	Sanctioned post			
			Pmt.	Temp.	Filled	Vacant
1	2	3	4	5	6	7
27	Sr. Tech. Asst.	5000-8000/-		1	-	1
28	Ptg. Inspector	5000-9000/-		1	1	-
29	Sr. Draftman	5500-9000/-		4	3	1
30	Draftman	5000-8000/-	1	2	1	2
31	Statistical Asst.	4500-7000/-	9	8	15	2
32	Computer	4000-6000/-	20	17	28	9
33	Proof Reader	4500-7000/-	1	-	-	1
34	Asst. Compiler	3050-4590/-	19	-	13	6
35	Hand press Machine operator	3050-4590/-	1	-	1	-
36	Lodger	2550-3200/-		4	4	-
37	Staff Car Driver	3050-4590/-	1	-	1	-
38	Sweepers	2550-3200/-	1	-	1	-
			83	140	179	44

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Quarterly return of staff of the office of the Director of Census Operations, Ass.
for the quarter ending _____

Sl. No.	Name of post	Scale of pay	Sanction post			
			Pmt.	Temp.	Filled	Vacant
	2	3	4	5	6	7
39	Hindi Typist	3050 - 4590/-		1	-	1
CANTEN						
40	Coupon clerk	3050 - 4590/-		1	1	
41	COOK	3050 - 4590/-		1	1	
42	Tea maker	2610 - 4000/-		1	1	
43	Bearer	2610 - 4000/-		1	1	
44	Wash Boy	2550 - 3200/-		1	1	
Total			83	146	184	45

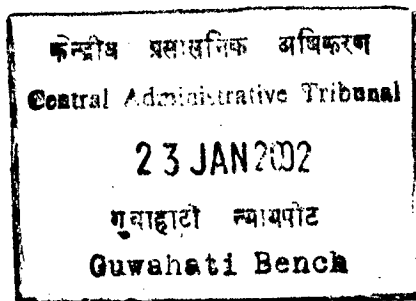
P.T.O

62

-26-

Quarterly return of staff of the office or the Director or Census Operations, Ass
for the quarter ending 31-3-2001

Sl. No.	Name of post	Scale of pay	Sanction post			
			Pmt.	Temp.	Filled	Vacant
1	2	3	4	5	6	7
	For Regional Census					
	Office 2001 Census					
1	D.O.C.O.			2	-	2
2	Asstt. Director	8000-13500/-		1		1
3	Investigator	5500-9000/-		3		3
4	Jr. Stenographer	4500-7000/-		3		3
5	Peon	2550-3200/-		3		3
	Total			10		10



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Filed by the applicant
through advocate
G.N. Chakravarty
on 8-1-2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

Contempt Petition No. 37/2001

In O.A. No. 388 of 2000

In the matter of :

Md. Abul Hussain & Ors

.....Petitioner

-Versus-

Sri J.K. Bhantia & Ors.

.....Alleged Contemners

-AND-

In the matter of :

Additional Rejoinder submitted on behalf
of the petitioners against the counter
reply submitted by the alleged contemners.

The humble petitioners above named -

Most Respectfully beg to state as under :

1. That your petitioners categorically deny the contention of the alleged contemners/respondents made in their counter reply that there is no suitable vacancies occurred/sanctioned for the 2001 Census Operation work to absorb the petitioners. The petitioners in support of their earlier contentions, further beg to state that after receipt of the judgment and order dated 20.3.2001 passed in O.A. 388 of 2000 the alleged contemners/respondents filled up in as much as 10 posts of Assistant Compiler/Computers through on deputation basis from the office of State Head Office, Guwahati vide Assistant Director of Census Operations, Assam dated 1.5.2001. It would be evident from the series of the appointment order issued on 1.5.2001 that the post of Assistant Compiler and the post of Computer which has been filled up on deputation basis

are being utilised/created/sanctioned for 2001 Census. But surprisingly no specific sanction order so far assistant compiler/Computer has been made available before the Hon'ble Tribunal while producing the relevant records in connection with the instant case. It would further be evident from the sanction order dated 1.2.2000 issued by the Registrar General, India, New Delhi that there were 11 sanctioned posts of Computer made available for Census work 2001 for the Assam Region whereas in the subsequent sanction order for 2001 Census no post for computer has been sanctioned by the office of the Registrar General, New Delhi, but the regular posts of Computer/Assistant Compiler which are now lying vacant and available with the office of the Director Census Operation, Assam has been decided to utilise for the purpose of 2001 Census. This fact would be evident from the impugned Circular dated 23/24.2.2000 wherein it is categorically stated that the posts of Upper Division Clerk, Draftsman, Proof Reader, Computer, Lower Division Clerk, Senior Technical Assistant, Senior Stenographer, Assistant Compiler and Peon is sought to be filled up on transfer on deputation basis in order to avoid implementation of the judgment and order dated 20.3.2000 passed in O.A. 388 of 2000 by the Hon'ble Tribunal. The attempt of the respondents is deliberate to mislead the Hon'ble Tribunal so far vacancy positions are concerned. It is categorically submitted that the post of Draftsman which were circulated through letter dated 23/24.2.2000 could not be filled by the alleged contemners/respondents for utilising the same for 2001 Census Operations. Therefore, there is no difficulty on the part of the respondents to accommodate the present contempt petitioners against the available posts of draftsman as stated above. It is categorically submitted that at least two posts of draftsman are still available with the alleged contemners/respondents as well as nine posts of computer and six posts of Assistant Compiler are also available with the Director of Census Operation, Assam. As

such there is no difficulty the present petitioners in the existing available vacancies as mentioned above.

Copies of the appointment orders referred to above are annexed hereto and the same are marked as **Annexure-A series** for perusal of the Hon'ble Tribunal.

AFFIDAVIT

I, Md. Abul Hussain, Son of Md. Azizur Rahman,, aged about 33 years, resident of village Dampur, P.O. & P.S. Hajo, in the district of Kamrup, Assam, do hereby solemnly declare as follows :-

1. That I am the petitioner in the above contempt petition and as such I am well acquainted with the facts and circumstances of the case and also competent to sign this affidavit.
2. That the statements made in this additional rejoinder are true to my knowledge and belief and I have not suppressed any material fact.

And I sign this Affidavit on this day of January, 2002.

Identified by

Advocate

Md. Abul Hussain

1

Solemnly affirmed and declared
before me by the deponent who
is identified by
Sri.....
Advocate on this the
day of 2002.

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ORDER

1/5/2001.

Shri Aneel Kr. Das in the o/o the Assam State co-operative Marketing Consumers Federation Ltd (Statfed), Bhangagarh, Guwahati is hereby appointed as Assistant Compiler by transfer on deputation basis in the o/o the Director of Census Operations, Assam, Guwahati in the scale of pay Rs. 3040-75-3950-80-4590/- p.m. plus other allowances as admissible as per Central Govt. Rules initially w.e. 27.4.2001 to 28.2.2002 against the resultant vacancies caused due to promotion of incumbents against the post sanctioned for 2001 Census. The pay of the incumbent will be regulated as per Ministry of Personnel's O.M. No.2/12/87/Estt/pt.II dt. 29.4.1988 read with this office letter No. DCO(E)50/99/8084 dt. 25.4.2001.

(DR. S. K. BARUAH)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM :::::::::: GUNAHATIL.

Memo No. DCO(E)123/2001/8/61-65

dt. 1/3/2001.

Copy to :-

1. The Pay & Accounts Officer (CENSUS), New Delhi-2.
2. The Managing Director, Statefed H.O., Guwahati with reference to his letter No. GA/A/266/pt.I/86-87/681 dt. 26.4.2001. He is requested to send the LPC & Service Book to this office immediately.
3. Service Book.
4. Accounts Branch.
5. Shri Amgo Kumar Das, Asstt. Compiler.

(DR. S. K. BARUAH)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM ::::::::::: GUWAHATI.

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ASSAM STATE CO-OPERATIVE MARKETING FEDERATION LTD. (STATEFED), BHANGAGARH, GUWAHATI
OFFICE OF THE
DIRECTOR OF CENSUS OPERATIONS, ASSAM, GUWAHATI
MEMORANDUM OF ORDER
C.O. NO. 120/2001

ORDER

1/5/2001.

Shri Rup Ram Baruah in the o/o the Assam State Co-operative Marketing Consumers Federation Ltd. (Statefed), Bhangagarh, Guwahati is hereby appointed as Computer by transfer on deputation basis in the o/o the Director of Census Operations, Assam, Guwahati in the scale of pay Rs. 4000-100-6000/- p.m. plus other allowances as admissible as per Central Govt. Rules initially for a period from 27.4.2001 to 28.2.2002 against the purely temporary posts sanctioned for 2001 Census.

The pay of the incumbent will be regulated as per Ministry of Personnels O.M. No.2/12/87/Estt/pt.II. dt. 29.4.1988 read with the conditions embodied in this office letter No. DCO(E)50/99/8084 dt. 23.4.2001.

Baruah
1/5/2001
(DR. S. K. BARUAH)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM ::::::::::: GUWAHATI.

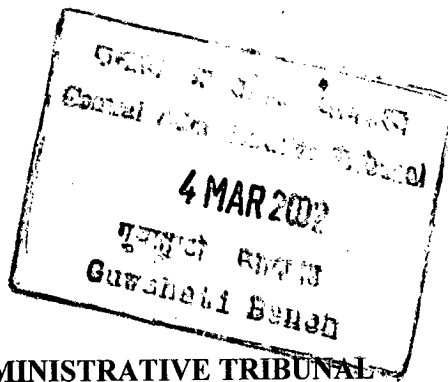
Memo No. DCO(E)120/2001/ 8/92-96

dt. 1/5/2001.

Copy to :-

1. The Pay & Accounts Officer (Census), New Delhi-2.
2. The Managing Director Statefed H.O., Guwahati with reference to his letter No. GA/A/266/pt.I/86-87/681 dt. 26.4.2001. He is requested to send LPC & Service Book in respect of Shri Baruah to this office immediately.
3. Service Book.
4. Accounts Branch.
5. Rup Ram Baruah, Computer.

Baruah
1/5/2001
(DR. S. K. BARUAH)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM ::::::::::: GUWAHATI.



Filed by

69
B. C. Pathak

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

C.P. No.37/2001

IN

O.A. No.388/2000

In the matter of

Md. Abul Hussain & Others -- Petitioners

- vs -

Shri J.K. Banthia & Others (U.O.I.) -- Respondents

**REPLY TO ADDITIONAL REJOINDER SUBMITTED ON BEHALF OF THE OF
THE PETITIONERS AGAINST COUNTER-REPLY SUBMITTED BY THE
RESPONDENTS.**

Most respectfully sheweth:

Preliminary Submission

1. That at the very outset, the respondents most respectfully submit that there is no established procedure prevailing for submitting additional rejoinder to counter-reply without the leave of the Hon'ble Court. The Petitioners have neither filed an application for the leave of the Court nor they have obtained the leave of the Hon'ble Court for filing the additional rejoinder to the counter-reply. It is respectfully submitted that on 21.12.2001, when the matter was argued at length (for about two hours), after conclusion of the submissions on behalf of both the parties, the counsel for the Petitioners placed before the Hon'ble Tribunal certain letters/appointment orders appointing certain persons on the posts different from those on which the petitioners were required to work during the census operation. When it was pointed out to the Hon'ble Court that the letters pertain to different posts, the Hon'ble tribunal directed the Petitioners to file the documents with

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supporting affidavits taking the responsibility. After the direction of the Hon'ble tribunal dated 21.12.2001 the Petitioners filed the additional rejoinder not mentioning about the documents produced by them before the Hon'ble tribunal on 21.12.2001. It is respectfully submitted that no opportunity was given to the Petitioners to file any additional rejoinder to the counter-reply filed by the respondents nor there is any scope for additional rejoinder in the contempt proceedings. Further, the petitioners have never filed any application before the Hon'ble Tribunal seeking to file additional rejoinder. It is humbly submitted that the petitioners have preferred to argue the case on the basis of available record and it was only after detailed arguments that they had produced certain loose papers before the Hon'ble Court. On their action only, the Hon'ble Court was pleased to direct the Petitioners to take responsibility and to file an affidavit in support of the documents filed by them. Not acting fairly, the Petitioners have tried to avail the opportunity to file additional rejoinder against the counter-reply filed by the respondents. Further more, the petitioners have not enclosed most of documents produced by them before the Hon'ble Court on 21.12.2001 depriving the Respondents from an opportunity to take their stand on such documents.

2. That as has already been explained in the counter-reply, the Petitioners, Md. Abul Hussain & Others, worked as Draftsman against census operation posts and they could claim their engagement against the post of Draftsman created for census operation. As no post of Draftsman could be created/sanctioned for census operation 2001, the occasion to engage the Petitioners did not arise. The two documents enclosed along with the additional rejoinder refers to the post of Asstt. Compiler and Computer and there is no mention about the post of Draftsman. It is submitted that when the claim of the petitioners in the O.A. could be for the same post on which they worked and when the Hon'ble Tribunal passed a clear order that the respondents to absorb the Petitioners in **Vacancies** that would occur for census operation, 2001 in **suitable** post commensurating with their qualifications, the petitioners cannot claim that the direction of the Hon'ble Tribunal meant that they were to be engaged on any post in the Department.

3. That here it would be relevant to mention that in the first O.A. i.e. **O.A. No.270/93** filed by the Petitioners before the Hon'ble Tribunal, they had averred in para 4.2 that they were selected for being appointed as Draftsman and in the prior clause they had prayed for their continuance in the post occupied by them i.e. in the post of Draftsman. So, at this stage, the Petitioners cannot argue that whatever post occurred in the Office of RGI should have been given to them. Here it may also be relevant to submit that the said O.A. of the petitioners was for the post of Draftsman and that the order passed by the Hon'ble Tribunal was challenged by the Petitioners before the Hon'ble High Court, Guwahati by way of filing Civil Rule No.2924/98. Further, in the said Civil Rule, the Petitioners had filed a Miscellaneous Case No.323/2000 making a prayer for stay of the circular dated 23.2.2000 issued by the Department contemplating filling up of some posts by suitable officials from Central/State Govt. Departments by transfer on deputation on adhoc basis. In the said Misc. Case, the Hon'ble High Court in its order dated 30.3.2000 took a view that if the Director of Census ;Operation desires to fill up some posts on deputation, the Hon'ble Court can surely not interfere and compel the Director to consider the case of the petitioner for adhoc appointment. However, be so it may, the respondents have deep and high regard for the order of the Hon'ble Tribunal and as no post of Draftsman could be sanctioned/created for census operation 2001, the Petitioners could not be engaged. The direction of the Hon'ble Tribunal contained in the order dated 20.3.2001 was conditional and the Petitioners were to be engaged/absorbed on fulfilment of those conditions i.e. the post of Draftsman for census operation should have occurred and the petitioners should have been found suitable for the same. Further, when the claim of the Petitioners was based on their having worked on a particular post and their claim was for a particular post and the order of the Hon'ble Tribunal was in view of such claim of the Petitioners, now in the contempt proceedings, the Petitioners cannot contend that they should have been given any post created for census operation. Further, the order dated **1.5.2001** enclosed by the Petitioners as Annexure-A point out that even on the post of Asstt. Compiler, the appointment was against a resultant vacancy (regular post) occurred due to adhoc

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promotion of a regular employee. There was no direction from the Hon'ble Tribunal to consider the Petitioners against a regular post. Again the appointment of Shri Rup Ram Baruah in the office of Assam State Co-operative Marketing Consumers Federation Ltd., Guwahati, as can be seen from order dated 1.5.2001, was on the post of Computer by transfer on deputation. It is submitted that the Petitioners cannot claim a superior right over a regular Govt. employee, who is brought to another establishment on deputation. The Petitioners could claim the post in preference to juniors on the basis of their seniority. Moreover, the requisite qualifications for the post of Computer is graduation and the petitioners being not so qualified cannot say that they were suitable for the post. A copy of the letter dated 1.2.2000 issued from the Office of RGI (Ministry of Home Affairs), conveying the sanction of the President for creation of the census post for the Directorate of Census Operation, Assam for a period upto 28.2.2001 is at Annexure-I. A perusal of the letter makes it clear that no sanction for either of the post of Draftsman or HPMO or LDC has been created for census operation 2001. A statement to this effect has also been made in the counter-reply to the contempt petition. In fact, the petitioners are guilty of filing a false contempt petition and lingering on the matter on false grounds. Neither in their petition nor in their additional rejoinder, the Petitioners could point out even a single appointment in either of the posts i.e. Draftsman, Hindi Typist, Asstt. Compiler, HPMO or LDC. When the petitioners has filed their O.A. claiming a particular post on the basis of having worked on that post and when the Hon'ble Tribunal could decide their O.A. in view of their such claim, now in the contempt proceedings the Petitioners cannot argue that their claim was for any post created in the Department irrespective of the fact that whether they had worked on that post or not. Here it may also be relevant to submit that the additional rejoinder has been filed in the case of C.P. No.37/2001 only and no additional rejoinder has been filed in other four connected matters i.e. C.P. Nos.44/2001, 45/2001, 46/2001 and 47/2001.

4. That here it may also be relevant to submit that along with his rejoinder, the Petitioners enclosed a circular dated 23.2.2000 to contend that the posts of Draftsman, LDC and Asstt. Compiler were sanctioned. It is submitted that a bare perusal of the

circular dated 23.2.2000 (Annexure- II) will show that the said circular is only a proposal to fill up some posts on deputation and not a final decision. Again, the circular dated 23.2.2000 was available at the time of adjudication of O.A. No.388/2000 on 20.3.2001 and had the Hon'ble Tribunal been convinced that the said circular is a final decision for creation of the posts, instead of passing a conditional order, the lordship would have passed a straight order. The Petitioners cannot argue that by issuing the circular dated 23.2.2000, the post could be created after 20.3.2001. Again the circular dated 23.2.2000 was challenged by the Petitioners themselves before the Hon'ble High Court, Guwahati in Misc. Case No.323/2000 in Civil Rule No.2924/98 and the Hon'ble High Court having gone through the submission of the Petitioners took a view that the application does not merit acceptance. Further, in the memo dated 14.2.2000, as also in the RGI's letter dated 1.2.2000 it was mentioned that the steps taken by the Department by issuing the circular dated 23.2.2000 are only intermediate actions and not a final decision. In the said letters, there is no mention about the posts on which the petitioners worked during the census operation. Copies of the letter dated 1.2.2000 as well as the letter dated 14.2.2000 issued from the office of RGI(MHA) creating temporary posts for census operation 2001 are at Annexure I & III

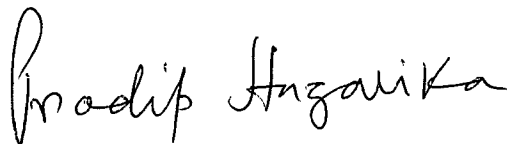
PARAWISE REPLY TO ADDITIONAL REJOINDER

1. That the contents of para 1 of the additional rejoinder are absolutely irrelevant and false and the same are denied. A bare perusal of para 1 clearly shows that the respondents did not disobey the order of the Hon'ble Tribunal and they did not have the vacancies of Draftsman, LDC, Hindi Typist and HPMO sanctioned for census operation 2001. Further, regarding the allegation of the Petitioners that the post of Asstt.Compiler/Comptor were filled up after receipt of the order dated 20.3.2001, it is respectfully submitted that the respondents have not disobeyed the order of the Hon'ble Tribunal in any manner. The claim of the Petitioners was for the post of Draftsman, (LDC, HPMO and Hindi typist etc.) and they had no claim on the post of Asstt.Compiler or Computer and as they have never worked on these

posts during any census operation and hence they cannot have any such claim. By way of contempt proceedings, the Petitioners are trying to give rise to new controversies, which they cannot do under any procedure of law. Further, it is incorrect to state that the relevant record in connection with the creation of post of Asstt. Compiler and Computer is not there or is concealed from the Hon'ble Court. The copies of letters dt: 1.2.2000 as well as 28.2.2001 which refer to the creation of the post of Asstt. Compiler and Computer are at Annexure I & IV. It is submitted that the petitioners can neither have a claim to the census post of Asstt. Compiler or Computer nor they can claim the regular post of Asstt. Compiler or Computer in the contempt proceedings. In the Original Application, their claim was for the post of LDC, HPMO, Hindi Typist, Sr. Draftsman etc. And the said claim was based on their having worked on such post during census operation. It was the said claim of the Petitioners which was adjudicated by the Hon'ble Tribunal. When the Petitioners had no claim for the posts of Computer/Asstt. Compiler and nor such claim was decided by the Hon'ble tribunal in the C.P., the petitioners cannot argue that they should have been considered for the post of Computer/Asstt. Compiler either for census post or regular post. It is categorically denied that the respondents have created/sanctioned the post of Sr. Draftsman, Hindi Typist, LDC and HPMO for census operation 2001. As far as the circular dated 23.3.2000 is concerned, it is submitted that the said circular was issued prior to the date of the order of the Hon'ble Tribunal. Further, the circular dated 23.2.2000 is only a proposal and not a final decision. In fact, the letters of RGI office (MHA) dated 1.2.2000 and 28.2.2001 are relevant for creation of temporary posts for census operation. Vide letter dated 1.2.2000, certain posts were created for census operation 2001 and vide letter dated 28.2.2001, the posts were extended for census operation for a period of one year with effect from 1.3.2001. Neither of these two letters was in reference to the posts claimed by the petitioners in their O.A. It is denied that the respondents are deliberately trying to mislead the Hon'ble Court. In fact, it is only the Petitioners who are misleading the Hon'ble Court. It is humbly submitted that no one has been engaged either as Draftsman, Hindi Typist, LDC,

HPMO for census operation 2001. The Petitioners are lying upon a circular for which a contempt proceeding has already initiated while the circular is very much available in the file itself. It is submitted that the respondents have no vacancy of ;Draftsman for census operation 2001 to accommodate the petitioners. It is humbly submitted that the Petitioners could not be engaged against the regular post of Draftsman as it should have been filled up in accordance with the Recruitment Rules and through an authorized recruiting agency . Even in the case of Mohd. Ammeenuddin also, the Hon'ble Supreme Court has not recommended for filling up the post overlooking the Recruitment Rules. In the said case also, the recommendation was only to consider the census employees only at the time of process of filling up regular posts through authorised recruiting agency. It may also be relevant to mention here that by the letter dt. 18.2.2002, one post of Statistical Investigator, one post of Sr.Technical Assistant, one post of Senior Draftsman, six posts of Compilers created for census operation have been abolished as the same are no longer required.

2. In view of the above it is respectfully submitted that by way of filing the additional rejoinder, the Petitioners have made an uncalled-for contempt for misleading the Hon'ble tribunal. The Contempt Petition filed by the Petitioners therefore deserves to be rejected.

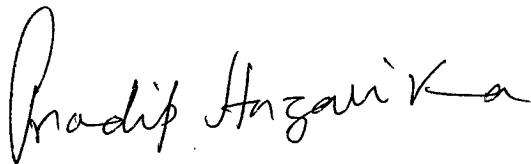


Respondent.

Verification

That the statements made in Paragraphs 1, 2, para 2 of this reply affidavit are true to my knowledge and belief, those made in paragraphs 3, 4, para 1 being the matter of records are true to my information derived thereon and the rest of my humble submission before the Hon'ble Tribunal.

And I sign this affidavit on this 4th day of March, 2002 at Guwahati.



Deponent.

तार : "जनगणना"
Telegram : "REGGELIND"

9
ANNEXURE I

सं/No. A.11020/1/99-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
2/A, MANSINGH ROAD,

नई दिल्ली, दिनांक 1.2.2000
New Delhi, the

To

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

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

Sir,

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

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

In accordance to office order No. A-11020/1/99-
DMIAM directed to convey the sanction on
under Contd...

738
11/3/2000
Assam Government

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

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

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

Yours faithfully,

(B.P. JAIN)
DEPUTY DIRECTOR

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

New Delhi, the

Copy forwarded to :-

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

(B.P. JAIN)
DEPUTY DIRECTOR

11
NO.DCO(E)50/99/2172

Annexure-II

the 23rd Feb. 2000
24/2

C I R C U L A R

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

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

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

The period of deputation will be initially for a period upto 28.2.2001 which may be extended for further period.

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

Memo No.DCO(E)50/99/2173-2213 Date : 23/2/2000

- Copy to :
- 1) The Registrar General, India, 2/A Mansingh Road, New Delhi-110011 with reference to his letter No. 12011/4/2000-Ad.IV dt. 14.2.2000.
 - 2) All DCO's State/UTs and Deputy Registrar General(L) Calcutta.
 - 3) The Deputy Director (Advertising), Directorate of Advertising and visual publicity, PTI Building, Sansad Marg, New Delhi-11 for publication in the Employment News.
 - 4) The Circulation-cum-Advertising Manager, Employment News, East Block-IV, R. K. Puram, New Delhi.

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- : 2 : -

- 5) All Head of offices, Central Govt.
- 6) All Heads of State Govt. offices to the Govt. of Assam.
- 7) The Secretary (GAD), Dispur, Guwahati.
- 8) The Secretary to the Govt. of Assam (SAD), Dispur.
- 9) The Commissioners of Divisions Govt. of Assam.
- 10) All Deputy Commissioners.
- 11) All Sub-Divisional Officers (Civil).
- 12) Notice Board.

by *24/02/2000*
(M. R. DAS)
DIRECTOR OF CENSUS OPERATIONS, ASSAM
GUWAHATI

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8

ANNEXURE - I

<u>Sl. No.</u>	<u>Name of the post and pay scale</u>	<u>Eligibility condition</u>
1.	Upper Division Clerk Rs.4000-100-6000/- p.m.	(i) Officials Central/State Govt. holding analogous posts in the pay scale of Rs.1200-2040/- (pre revised) or with at least 8 year regular service in the LDC/ Typist posts carrying pay scale of Rs.950-1500/- (pre-revised) and possessing the following qualifications. (ii) Degree of a recognised University or equivalent.
2.	Draftsman Rs.4500-125-7000/- p.m.	Officials from Central/State survey offices. (i) Matriculation or equivalent. (ii) Diploma in commercial or Fine Art or Draftsmanship from a recognised institution with some knowledge in drawing maps, charts and book covers. <u>Desirable</u> At least one year experience as draftsman cum Artist.
3.	Proof Reader Rs.4000-100-6000/- p.m.	Officials of Central/State Govts. holding analogous post or at least 5 (five) years regular service in posts carrying pay scale of Rs.950-1500/- (pre-revised) and possessing the following qualifications. (i) Degree of a recognised University or equivalent. (ii) Two years experience of Proof Reading and technical marking.

contd.....2

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

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

Essential : Degree with Economics
or statistics or Mathematics as a
subject from any recognised univer-
sity.

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

5. Lower Division Clerk
Rs.3050-75-3950-80-4590/-p.m.

Officials of the Central/State Govt.
holding analogous posts and having
the following educationa and other
qualifications.

(i) Matriculation or equivalent.

(ii) Minimum speed of 30 words per
minute in typewriting (in
English).

6. Sr. Technical Asstt. (Ptg.)
Rs.5500-175-9000/- p.m.

Officers of the Central/State Govt.

(i) holding analogous post or with
at least three years regular
service in posts carrying pay
scale of Rs.1400-2300/-(pre-
revised) and

(ii) having five years experience
in printing work, proof reading
and technical marking.

7. Sr. Stenographer
Rs.5000-150-8000/- p.m.

Officials of the Central Govt./
State Government

(a) (i) holding analogous post on
regular basis.

(ii) With five years regular
service in the grade of
Rs.1200-2040/- (pre-revised).

(b) Possessing a speed of 100 words
per minute in Stenography
(English/Hindi).

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

Officials of the Central/State
Govt.

(i) Matriculation or equivalent

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

or

Experience in coding and
punching in an office or
firm having mechanical
tabulation equipment.

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

Officials of the Central/State
Govt.

Middle school standard pass from
a recognised school

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ANNEXURE - II

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

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

Signature of applicant

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

1. It is certified that the particulars furnished by the official are correct.

2. It is certified that no disciplinary case is pending or contemplated against applicant and he/she is clear from vigilance angle.

Head of office

"REGGELIND"

17
2011/4/2000-Ad. IV

Approved III (6)

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS/ORGANISATION

OFFICE OF THE REGISTRAR GENERAL, INDIA

of India, Plot 2/A, Mansingh Road,
New Delhi, the 14.02.2000

To, All DCOR,

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 DCORs 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.

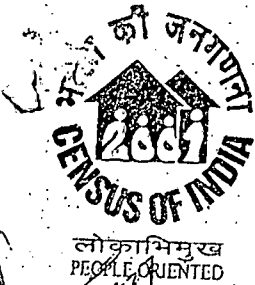
If some of the officials appointed against Census of India - 2001 posts have to be regularised later, on availability of long-term vacancies due to retirement etc, separate orders for their regularisation must be issued.

So far as Group 'B' posts are concerned you are requested to send by 25th February 2000 the A.C.R. documents 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,

18 ANNEXURE -IV



Office of the Registrar General, India
(Government of India, Ministry of Home Affairs)
2/A, Mansingh Road, New Delhi-110011.

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Ref. No.:A.11020/1/99-Ad.II

Date: 28.02.01

1/3/2001
S(E)
B. B. B. B.
5/3

To

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

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

Sir,

In pursuance to this office Order No.A-11020/1/99-Ad.II dated 19.1.2000 and in continuation of Order of even no. dated 1.2.2000 on the above subject, I am directed to convey sanction of the President to continuation of the under-mentioned temporary posts for the Directorate of Census Operations, Assam for a further period of one year with effect from 1.3.2001 :-

S.No.	Name of the post	Scale of pay	No. of posts
1	2	3	4
1.	Jt. Director of Census Operations	Rs.10,000-15,200	1
2.	Asstt. Director of Census Operations(G)	Rs.8,000-13,500	1
3.	Research Officer	Rs.8,000-13,500	1
4.	Statistical Investigator Gr.II	Rs.5,500-9,000	2
5.	Accountant	Rs.5,500-9,000	2
6.	Confidential Assistant	Rs.5,500-9000	1
7.	Sr. Drawing Assistant	Rs.5,500-9000	1
8.	Sr. Technical Assistant (Printing)	Rs.5,500-9,000	1
9.	@Senior Artist	Rs.5,000-8,000	1
10.	@Senior Draftsman	Rs.5,000-8,000	1
11.	Printing Inspector	Rs.5,000-8,000	1

Director of Census Operations
5/3/2001

5/3/2001

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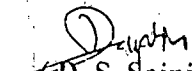
12.	Statistical Investigator Gr.III	Rs.5,000-8,000	5
13.	Compiler	Rs.4,000-6,000	8
14.	UDC	Rs.4,000-6,000	2
15.	Daftary	Rs.2,610-3,540	1
		Total	29

@The posts of Senior Artist, Artist and Senior Draughtsman has been merged as Senior Draughtsman vide this Office Order no. 22/1/1997-Ad.II dated 4.4.2000.

1. The expenditure involved is non-plan and is debitable to the Major Head 3454- Census, Surveys & Statistics; 01-Census;800.02 - Abstraction and Compilation; 800.02.00.01-Salaries for the years 1999-2000,2000-2001 and 2001-2002.

2. This issue with the concurrence of IFD (Home) vide U.O. No. 229/FA(H) 2000 dated 12.1.2000.

Yours faithfully,



(D. S. Saini)
Under Secretary

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

New Delhi, the 28.02.2001

Copy forwarded to :-

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


(D. S. Saini)
Under Secretary