

FORM No. 4
(See Rule 42)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI.

ORDERS SHEET

Contempt APPLICATION NO. 45 / 2001
in O.A. 82/2000

Applicant (s) K.S. Thaimi

Respondant(s) K. Pandey & Co.

Advocate for the Applicant: B.K. Shawna, S. Sarma, U.K. Nair,

Advocate for the Respondant: CGSC.

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition has been filed by the counsel for the petitioner praying for non-implementation of the judgement and order dated 2-3-2000 passed by the Honble Tribunal in O.A. 82/2000.

Laid before the Honble Court for further orders.

N. S. 25/9/2001
Section Officer

pl. comply order dated 26/9/2001.

WS.
26/9/01

26.9.01

mb

15.11.01

mb

20.12.01

mb

Issue notice. Returnable by 4 weeks.

List on 15/11/01 for the order.

Member

Vice-Chairman

List on 20/12/01 to enable the respondents to file reply, if any.

Member

Vice-Chairman

Respondents has filed the reply. List this matter on 21.12.01 along-with C.P. 37/2001 for order.

Member

Vice-Chairman

Notice prepared and sent to
D/S for issuing the resham-
dent No 1 to 3 by Regd/10.

4/10/01

D/No. 3860 W 3862/
old 8/10/01.

① Service report are
still awaited.

By
13.11.01

C.P.No.45/2001 (O.A.No.82/2000)

21.12.2001

Heard the learned counsel for the parties at some length. In the course of hearing, Mr S. Sarma, 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.

11/11/01
Member

Vice-Chairman

nk m

10.12.2001 4.2.02

Counter reply has
been submitted by the
respondents.

Repy has been filed

By
1.2.02

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. for the respondents 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 allowed 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, no adjournment shall be granted to the respondents. on this ground.



List on 5.3.2002 for hearing.

11/11/01
Member

Vice-Chairman

mb

C.P.45/2001 (O.A.82/2000)

Notes of the Registry	Date	Order of the Tribunal
<p>Order dtd. 5/3/02 Communicated to the respondents No.2 & 3 by Regd A/D.</p> <p>DINo 759 W 760</p> <p>Dtd 6/3/02</p> <p>Reply has been filed by the contemner.</p> <p>By 18.3.02.</p>	<p>5.3.2002</p>	<p>We have heard Mr.S.Sarma, 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.Bhardwaj, learned Sr.C.G.S.C. who had 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.2 Shri J.K.Bandia, Registrar General of India and respondent No.3 Kh. Dinamahi Singh, Director of Census Operations, Manipur are 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 on 19.3.2002 accordingly.</p> <p>Member </p> <p>Vice-Chairman </p>

(4)

19.3.2002

Heard Mr.B.K.Sharma, learned Sr. counsel and Mr.M.Chanda, learned counsel for the applicant and also Mr. K.N.Choudhury, learned Sr.counsel and Mr.A.K.Bhardwaj and Mr.B.C.Pathak, learned Addl.C.G.S.C. for the respondents.

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.

Let the matter be listed on 2.4.2002. The personal appearance of the respondents are dispensed with for the time being.

Vice-Chairman

bb

19.3.2002

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.

In terms of the Tribunal's order dated 5.3.2002 the respondent No.2 Mr.J.K.Banthia, Registrar General and Census Commissioner, India and respondent No.3 Kh.Dinamani Singh, Director of Census Operations, Manipur appeared in person. Mr.K.N.Choudhury, learned Sr.counsel for the contemner prays for some time to look into the matter afresh.

Let the matter be listed on 2.4.2002. The personal appearance of the respondents are dispensed with for the time being.

Vice-Chairman

bb

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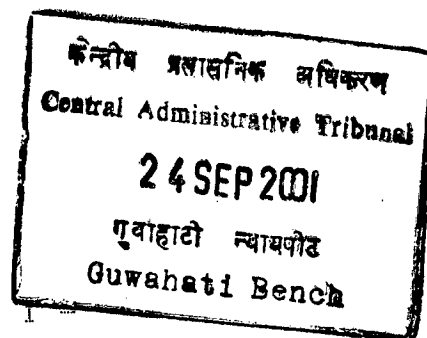
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C.P. 45/2001

Notes of the Registry	Date	Order of the Tribunal
	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 submitted that the Respondents ^{have appeared} have made representation to-day. He also stated 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 style="text-align: right;">List on 3.5.2002 for hearing.</p> <p style="text-align: right;"><i>ICU Sharma</i> Member</p>
	3.5.02	<p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in a separate sheets.</p> <p>The contempt petition is closed. in xxix terms of the order.</p> <p style="text-align: right;"><i>ICU Sharma</i> Member</p> <p style="text-align: right;"><i>[Signature]</i> Vice-Chairman</p>

[illegible][illegible]

Order of the Trib



Filed by
Usha Das.
Advocate
21/9/2001

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.
GUWAHATI BENCH:

C.P. NO. ⁴⁵.....2001.
In OA No. 82/2000

IN THE MATTER OF

An application under Section 17 of the Administrative Tribunal's Act, 1985 read with Rule 24 of the CAT (procedure) Rules, 1987.

- AND -

IN THE MATTER OF

Judgment and order dated 2.3.2000 passed in OA No. 82 of 2000 and the judgment and order dated 7.6.2001 passed by the Hon'ble Gauhati High Court in WP(C) No. 2533/2001.

- AND -

IN THE MATTER OF

Willful and deliberate violation of the above orders.

- AND -

IN THE MATTER OF

Shri K.S. Theimi.

Vill. Hundung, Ukhrul, Manipur.

... Petitioner

-vs-

1. Shri Kamal Pandey, secretary to

the Government of India,
Ministry of Home, New Delhi.

2. Shri J.K. Bandia, Registrar
General of India, 2A Mansing
Road, New Delhi-11.

3. Kh. Dinamani Singh, Director of
Census Operations, Manipur,
Imphal.

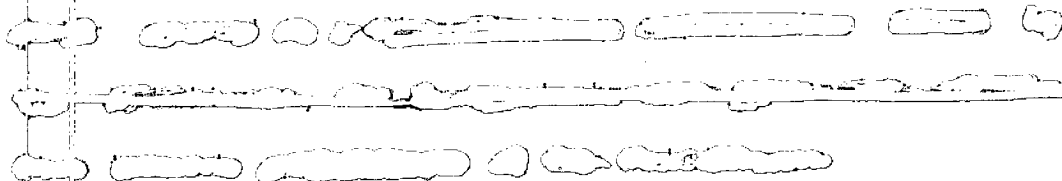
... Respondents/Contemners

The humble petition on behalf of the petitioner
abovenamed;

MOST RESPECTFULLY SHEWETH.

1. That the petitioner is a retrenched census
employee who had been working under the Respondent No.
3. during 1991 census operation. His service was
terminated inspite of existence of vacancy in the cadre
of LDC and other Group C vacancies.

2. That when his case was not considered for absorption
in any group C vacancy against census operation of 2000
as well as the regular vacancies, he had to approach
the Hon'ble Tribunal by filing OA No. 82/2000. The said
OA was disposed on by an order dated 2.3.2000 with a
direction to the Respondents to absorb the Petitioner
against the available Group C vacancies.



Copies of the aforesaid orders are annexed as Annexure-1 series.

3. That the Respondents without implementing the said order filed review application No. 12/2000 for a review of the said order. Although there was no stay order in the review application, the Respondents did not implement the aforesaid orders of the Hon'ble Tribunal and kept on violating the same. Eventually the review application was dismissed by an order dated 11.1.2001. Being aggrieved, the Respondents as the writ Petitioner approached the Hon'ble Gauhati High Court by filing WP(C) No. 2533/2001. The Hon'ble High Court was pleased to dismiss the writ petition by its order dated 7.6.2001 with a direction to implement the orders of this Hon'ble Tribunal within 15 days.

A copy of the said order dated 7.6.2001 is annexed as Annexure-2. The Petitioner craves of the Hon'ble Tribunal to produce the copy of the order passed in the review application.

5. That inspite of the above orders of the Hon'ble Courts, the Respondents are not implementing the said orders and are still wilfully and deliberately violating the same. Although in respect of some others, who were also party to similar proceedings initiated before this Hon'ble Tribunal as well as in the High Court, the same very Respondents have implemented the similar orders of this Hon'ble Court by way of appointing them, but the Petitioner has been left out from being appointed in clear violation of the

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aforesaid orders of the Hon'ble Courts. Be it stated here that all the Respondents have been personally served with the copies of the aforesaid orders and they being party to the said proceedings are well aware of the above orders.

6. That the Petitioner states that the original time limit fixed by the Hon'ble Tribunal as well as the time limit fixed by the Hon'ble High Court has long expired, but the Respondents are sitting over the said orders and have not implemented the said orders and thereby they are violating the same willfully and deliberately. This is a unique case of its kind in which the Respondents have come into direct conflict with the judiciary without showing any scant regard to the orders passed by the Hon'ble Courts. This being the position each one of them is liable for contempt of court proceedings and appropriate punishment as provided for under the law.

7. That the Petitioner states that apart from initiation of contempt proceeding against the Respondents, appropriate orders are also required to be passed invoking the power under the Rule 24 of the CAT (Procedure) Rule, 1987 towards effective implementation of the orders of the Hon'ble Courts.

8. That the Petitioner submits that in view of the above position, he is now left with no other alternative than to approach this Hon'ble Tribunal once again seeking justice and remedy.

9. That this application has been filed bonafide and to secure the ends of justice.

In the premises aforesaid, it is most respectfully prayed that the Hon'ble Tribunal would be pleased to issue notice to the Respondents to show cause as to why contempt of court proceedings shall not be drawn up against each one of them and also as to why necessary orders be not passed invoking the power under Rule 24 of the CAT (Procedure) Rules, 1987 for effective implementation of the orders of the Hon'ble Courts referred to above and upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to pass appropriate order of punishment of the Respondents and further be pleased to pass appropriate orders towards effective implementation of the aforesaid orders of the Hon'ble Courts and/or be pleased to pass such further order/orders as the Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case so as to give complete relief to the Petitioner.

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

DRAFT CHARGE

The Respondents in the contempt proceeding are guilty of violation of the orders passed in OA No. 82/2000 affirmed by the Hon'ble Gauhati High Court in WP(C) No. 2533/2001 and accordingly they are liable for contempt of court proceedings.

Affidavit....

AFFIDAVIT

I Shri. K.S. Theimi, resident of Vill- Hundung, Ukhrul, Manipur, daughter of I Theimi, aged about ,
— years, do hereby solemnly affirm and state as follows :

1. That I am the Petitioner of this instant petition and conversant with the facts and circumstances of the case and as such competent to swear this affidavit.

2. That the statements made in this affidavit and in the accompanying application in paragraphs 1 and 4 to 8 are true to my knowledge ; those made in paragraphs 2 and 3 are matters of records which I verily believe to be true and the rest are my humble submissions before this Hon'ble Court.

And I sign this affidavit on this the 20th day of 9 September, 2001.

Identified by me :

Usha Das

K.S. Theimi
Deponent

Solemnly affirmed and declared before me by the Deponent who is identified by Miss Usha Das, Advocate on this 13th day of September, 2001.

Siddhartha Sarma
Advocate
20-9-2001.

In The Central Administrative Tribunal
GUWAHATI BENCH : GUWAHATI

ORDER SHEET
APPLICATION NO. 82/2000

OF 199

Applicant(s) Sri K.S. Meimi

Respondent(s) Union of Ldi and ocs.

Advocate for Applicant(s) Mr. B.K. Sarma.
Mr. S. Sarma.

Advocate for Respondent(s) Mr. U.K. GOSWAMI.
C.G.S.C.

2.3.2000

Heard Mr S.Sarma, learned counsel for the applicant and Mr A.Deb Roy, learned Sr.C.G.S.C for the respondents. As agreed by both sides this application is disposed of at the admission stage.

The applicant is a retrenched census employee and in this application he prays that he may be appointed against any vacancy in Group C posts that may occur in connection with the census operation of 2000 in the office of the Director of Census Operation, Manipur. The learned counsel for the parties submit that the case is squarely covered

contd..

Attested

[Signature]
Advocate

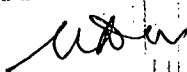
Cases of the Registry	Date	Order of the Tribunal
<p>15</p> <p>117/2000</p> <p>CEP-10</p> <p>Attested <i>[Signature]</i> Advocate.</p>	<p>2.3.2000</p>	<p>by the decision of the Tribunal dated 20.1.2000 in O.A.No.415 of 1999, O.I. Singh vs. Union of India and others. In this order it was held ;</p> <p>It is agreed by the counsel for the parties that as per the decision of the Apex Court in Government of Tamil Nadu and another vs. G.Md. Annemdeen and others (1999) 7 SCC 499, the applicant is entitled to get the appointment when the new vacancy will arise. As per the said decision the learned counsel for the parties submit that the applicant may be absorbed in the vacancy that will occur for Census of 2000, in a suitable post which he is entitled to following the judgment of the Apex Court..."</p> <p>Mr Sarma draws particular attention to para 4 of the judgment in Government of Tamil Nadu and another vs. G.Md. Annemdeen and others (1999) 7 SCC 499 in which the Hon'ble Supreme Court had held as follows ;</p> <p>"Several contentions have been raised before us but in view of the stand taken now by the appellants, it is unnecessary to examine them. On 11.3.1999, when the matter came up before us, we heard the learned counsel of both sides at length and felt that considering the special features of the case it would be appropriate for the State Government to frame a scheme to absorb the respondents and other employees, who were similarly placed and who have been retrenched. On the commencement of the Census operations, persons who have registered themselves in the employment exchange get jobs in that Department. However, when the project is over, their employment would come to an end and they are retrenched thereby losing both the employment and their position in the queue in the employment exchange. Bearing this aspect in mind, the Government was asked to work out an appropriate scheme."</p> <p>In view of the above, we dispose of this application with a direction to the respondents to consider absorption of</p>

Date	Order of the Tribunal
2.3.2000	<p>the applicant in a vacancy that will occur for Census Operations of 2000 for which the applicant is entitled to. The respondents shall make appointment immediately after occurrence of the vacancy subject to the fulfilment of the eligibility conditions and in accordance with law.</p> <p>The application is accordingly disposed of. No order as to costs.</p>

Sd/-VICE CHAIRMAN

Sd/-MEMBER (ADM)

Attested



Advocate.

- 11 -

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA,
MIZORAM AND ARUNACHAL PRADESH)

WRIT PETITION (CIVIL) NOS. 2531/2001, 2532/2001,
2533/2001, 2534/2001, 2535/2001, 2536/2001 and
2537 of 2001.

(1) In WP(C) No. 2531/2001 :-

1. Union of India.
2. The Registrar General of India, New Delhi.
3. The Director of Census Operations, Manipur.

.... Petitioners.

-Versus-

Oinam Indramani Singh,
Imphal, Manipur.

.... Respondent.

(2) In WP(C) No. 2532/2001 :-

Union of India and 2 others.
(as in WP(C) No. 2531/2001)

.... Petitioners

-Versus-

Md. Hatim Ali,
Vill. Yairipok Bamon Leikai,
Manipur.

.... Respondent.

(3) In WP(C) No. 2533/2001 :-

Union of India and 2 others.
(as in WP(C) No. 2531/2001).

... Petitioners.

-Versus-

Shri K.S. Theimi,
of vill. Hundung, Ukhrul,
Manipur.

.... Respondent.

(4) In WP(C) No. 2534/2001 :-

Union of India and 2 others.
(as in WP(C) No. 2531/2001)

... Petitioners

-Versus-

Md. Hasim Khan,
of vill. Top,
Manipur.

.... Respondent

(5) In WP(C) No. 2535/2001 :-

Union of India and 2 others
(as in WP(C) No. 2531/2001).

.... Petitioners.

-Versus.-

Attested
[Signature]
Advocate

Shri A. Gopal Singh,
of vill. Top,
Dist. Imphal, Manipur.

.... Respondent.

(6). In WP(C) No. 2536/2001 :-
Union of India and 2 others
(as in WP(C) No. 2531/2001).

.... Petitioners.

-Versus-

Th. Basanta Singh,
of Bishnupur, Imphal.

.... Respondent.

(7) In WP(C) No. 2537/2001 :-
Union of India and 2 others.
(as in WP(C) No. 2531/2001).

.... Petitioners

-Versus-

Md. Abdul Kalam Shah,
of vill. Yairipok,
Dist. Thoubal, Manipur.

.... Respondent.

PRESENT :

THE HON'BLE THE CHIEF JUSTICE (ACTING) MR. R.S. MONGIA

THE HON'BLE MR. JUSTICE D. BISWAS

For the petitioners : Mr. K.K. Mahanta, CGSC.

For the respondents : Mr. B.K. Sharma, Mr. U.K. Goswami,
Mr. R.K. Bothra, Mr. B.P. Sahu,
Advocates.

Date of Hearing and Judgment : 7th June, 2001.

JUDGMENT AND ORDER (ORAL)

R.S. MONGIA, C.J. (ACTING) :-

This order will dispose of WP(C) Nos. 2531/2001, 2532/2001, 2533/2001, 2534/2001, 2535/2001, 2536/2001 and 2537/2001. The impugned orders, passed in the Original Applications by the Central Administrative Tribunal, Assam (for short, the CAT) though identical, are of different dates in these cases. However, the order passed in the Review Applications is the same in all the cases. The facts are being taken from WP(C) No. 2531 of 2001.

Attested
[Signature]
Advocate.

We have heard Mr. K.K. Mahanta, learned Central Govt. Standing Counsel appearing for the petitioners and Mr. B.K. Sharma, learned counsel for the respondents.

The writ petition in WP(C) No. 2531 of 2001 is against the order of the Central Administrative Tribunal, Guwahati Bench (for short, the CAT), dated 20th January, 2000, passed in Original Application No. 415/99 (Annexure-B/7), as also the order passed on review filed by the respondents (petitioners before us), dated 11th January, 2001 (Annexure-B/11), by which the Review Application was dismissed.

Instead of giving the facts giving rise to the present petition, it will be apposite to reproduce the order passed by the CAT, dated 20th January, 2000, as also the order dated 11th January, 2001, passed on the Review Application.

"20.1.2000.

This is a consent order as agreed by the learned counsel for the parties. The brief facts are as follows :

The applicant was appointed Lower Division Clerk on 28.2.1991 in the Census Department for the purpose of Census Operation of 1991. After the operation was over, the applicant was retrenched. According to the applicant the census operation for the year 2000 will be taken up from January, 2000 and, therefore, some vacancies will arise. The applicant having worked for almost two years submitted Annexure-5 representation dated 28.8.1996 for appointment in a suitable post. However, the representation has not yet been disposed of. Hence the present application.

Heard Mr. S. Sarma, learned counsel for the applicant and Mr. B.S. Basumatary, learned Addl. C.G.S.C. It is agreed by the learned counsel for the parties that as per the decision of the Apex Court in Government of Tamil Nadu and another v. G. Md. Ammendden and others, reported in (1999) 7 SCC 499, the applicant is entitled to get the appointment when the new vacancy will arise. As per the said decision, the learned

counsel

S. Sarma

Attested
Advocate

counsel for the parties submit that the applicant may be absorbed in the vacancy that will occur for Census Operation of 2000 in a suitable post which he is entitled to following the judgment of the Apex Court.

The application is accordingly disposed of."

Order dated 11.1.2001 on Review Applications :-

"All the Review Applications were taken up together for consideration since it involved similar questions of facts and law.

2. Number of applications were filed before the Tribunal by the retrenched census employees for regularisation of their services in the light of the judgment rendered by the Supreme Court in Government of Tamilnadu and another v. G. Md. Ammendden reported in (1999) 7 SCC 499. This tribunal in the light of the directions rendered by the Supreme Court allowed the applications. Now these Review applications have been filed by the Union of India referring to the communications those were sent to the learned Standing Counsel for the Union of India by the concerned authority indicating the policy decisions which were taken by the respondents. The aforementioned communications were sent by the Ministry of Home Affairs and Ministry of Finance. By the communication dated 5.8.1999 the Ministry of Finance issued certain guidelines on expenditure management and to make fiscal prudence and austerity which also mentioned about the ban on filling of vacant posts and 10% cut in posts. By the communication dated 14.2.2000 sent from the Ministry of Home Affairs were also pertaining to filling up of Group C and D posts in the Census department either by promotion or on deputation stopping ad hoc appointment from open market.

3. We have heard learned counsel for the Union of India and also the counsel appearing for the opposite party/applicants in the O.A. On perusal of the documents those referred to earlier we do not find that those materials provide any scope for review of the earlier judgment passed by this Tribunal. The materials now produced by the review petitioners does not call for review of the earlier order. The power of review is not absolute and unfettered. The power is hedged with limitations prescribed in section 114/Order XLVII Rule 1 of C.P.C. read with section 22(3)(f) of the Administrative Tribunals Act, 1985. No such ground for review is discernible in the case in hand.

4. Under the facts and circumstances these Review Applications are liable to be dismissed and thus dismissed.

There shall, however, be no order as to costs."

Sharma

Attested
[Signature]
Advocate.

Apart from the fact that the order dated 20th January, 2000 is a consent order, we also find nothing wrong or illegal in the same. The order is in consonance with the dicta of the Apex Court laid down in Govt. of T.N. and another v. G. Mohamed Ammenu-deen and others, reported in (1999) 7 SCC 499. The objection raised by the learned counsel for the petitioners is that in the aforesaid judgment directions were given by the Apex Court that as per the scheme approved by the Apex Court the retrenchees may be absorbed in any vacancy that may be available in any Government Department, whereas in the present case, the directions of the CAT were being confined only to the Census Department. We are of the view that if the directions were being only confined to Census Department, the respondents herein (the applicants before the CAT) should have some grievance as the right of consideration was being only confined to Census Department and not to the other Departments of the State Government. Learned counsel for the respondents (applicants before the CAT) has stated that he is satisfied with the directions given by the CAT.

We have also gone through the order passed on the Review Applications. We find no infirmity in the same. We concur with the reasoning adopted by the CAT.

While dismissing the writ petitions, we hereby direct the petitioners to carry out the directions given by the CAT within two weeks. However, we, as a matter of abundant caution, make it clear that the petitioners would offer the vacancies to the retrenchees according to their length of service. A person with longer length of service in a particular category would

be

Attorney
Advocate

be offered the job first and then the other retrenchees in that order. After exhausting the retrenchees, if there are still more vacancies available, those may be filled by any other method provided under the Rules. These directions would be applicable to all the retrenchees irrespective of whether or not they were applicants before the CAT.

Copy of this order, attested by the
~~Court Secretary~~ ^{Bench Assistant}, be given to the counsel for the parties.

Attested
by
Advocate

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

C.P.No.45/2001

in

O.A.No.82/2000

In the matter of

Shri K.S.Theimi

Vill-Hundung

Ukhrul, Manipur.

.....Petitioner

Vs

Shri Kamal Pandey & Ors.

Secretary to the Govt. of India

Ministry of Home, New Delhi

.....Respondents

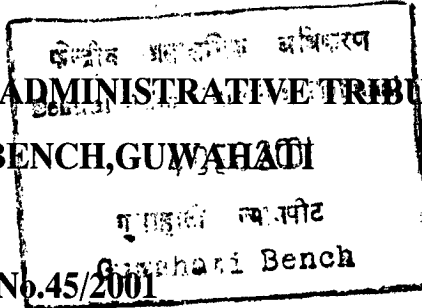
COUNTER REPLY ON BEHALF OF THE RESPONDENTS

Most respectfully showeth:

Preliminary submission

1. That the contempt petition is absolutely misconceived and misleading and is filed is abuse of the process of law. The answering respondents have deep and high regards for the orders of the Hon'ble Tribunal and they cannot think or act contrary to the spirits of the orders passed by the Hon'ble Tribunal.

2. That at the outset it is respectfully submitted that the respondents have not disobeyed the order of the Hon'ble Tribunal dated 2.3.2000 in any manner. It is respectfully submitted that vide order dated 2.3.2000, the Hon'ble Tribunal was pleased to direct the respondents that the petitioner may be absorbed in the vacancy that may occur for census of 2000, in a suitable post which he is entitled to following the judgement of the Hon'ble Apex Court. It is respectfully submitted that



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

admittedly, in the year 1991, the petitioner was temporarily appointed as LDC in the Census Department for the purpose of census operation 1991 and therefore, his claim could be considered for the temporary post of LDC only created for Census 2001. But, for 2000-2001 census, no post of LDC was created at all. So, if no post of LDC was created, the petitioner cannot complain disobedience of the order of the Hon'ble Tribunal dated 2.3.2000. It is respectfully submitted that the order of the Hon'ble Tribunal was conditional. The Hon'ble Tribunal directed respondents to absorb the petitioner on availability of the vacancies and subject to his suitability for the post. Here it is respectfully submitted that there was no post of LDC available for census of 2000-2001.

3. That in all fairness, it will be pertinent to submit before this Hon'ble Court that the following temporary posts were created for census 2001 in respect of the Directorate of Census Operations, Manipur:-

1. Statistical Investigator Gr. II	Group B	1 Post
2. Assistant	Group C	1 Post
3. Confidential Assistant	Group B	1 Post
4. Sr. Artist/Artist	Group C	1 post
5. Statistical Investigator Gr. III	Group C	2 Posts
6. Compiler	Group C	3 Posts
7. U.D.C.	Group C	2 Posts
8. Daftry	Group D	1 Post

It is submitted that no post of LDC was sanctioned for this Directorate.

4. It is respectfully submitted that from the order of Hon'ble Tribunal, a writ petition was preferred on the Hon'ble High Court of Guwahati vide WP(C) No. 2533/2001 and vide its order dated 7.6.2001 passed in respect of this writ petition, the Hon'ble High Court was pleased to clarify as follows:

"However, we, as a matter of abundant caution, make it clear that the petitioners would offer the vacancies to the retrenchees according to their length of service. A person with longer length of service in a particular category would be offered the job first and then the other retrenchees in that order. After exhausting the retrenchees, if there are still more vacancies available, those may be filled by any other method provided under the rules."

Therefore, in obedience of the order of this Hon'ble Tribunal, as clarified by the Hon'ble High Court, the answering respondents have given temporarily three posts of Compiler to such people who have longer length of service while working as census employee during census 1991, as at this time only three posts of Compiler were vacant. The applicant was not suitable for the post as he earlier worked for a different post and therefore he was not suitable for the post of Compiler. In view of the above, it is respectfully submitted that the respondents have not disobeyed the order of the Hon'ble Tribunal in any manner, let alone wilful disobedience. The allegation of wilful disobedience is, therefore, absolutely false.

5. That the order of the Hon'ble Tribunal was passed on 2.3.2000, thus the contempt petition filed on 4.10.2001 is barred by limitation. It is respectfully submitted that in the Contempt of Court, no contempt petition can be entertained after expiry of one year from the date of the order of the court. It is also relevant to mention here that there is no such rule under which delay occurred in filing contempt petition can be condoned. Therefore, the contempt petition filed belatedly is liable to be dismissed on this ground alone.

6. That it is respectfully submitted that the draft charges placed on record by the petitioner is absolutely vague and cryptic. The petitioner has nowhere mentioned any act of omission or commission in the conduct of the petitioner as the contempt of court. Thus, the contempt petition is absolutely misconceived

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and baseless and therefore deserves to be dismissed on this ground itself.

PARAWISE REPLY

1. It is respectfully submitted that in para 1 of the contempt petition, the petitioner has deliberately not disclosed the fact that during 1991 Census operation, he was appointed as LDC and that for 2001 census, no post of LDC was created. The petitioner has tried to conceal the material fact from this Hon'ble Court and has approached the Hon'ble Court with superficial comments.

2. The contents of para 2 of the contempt petition are misconceived and baseless. It is respectfully submitted that as per the directions of the Hon'ble Tribunal, the petitioner was to be considered on availability of such vacancies for which the petitioner could be considered suitable. As the petitioner was engaged as LDC only for 1991 census operation, the petitioner was not suitable for any other temporary post which was created and vacant for 2001 census operation. As far as the post of Compiler is concerned, in obedience of the order of the Hon'ble Tribunal, clarified by the Hon'ble High Court, the posts were to be filled up according to seniority of the employees. The employees who had worked in the same post (earlier known as Computer) and were having longer length of service in census operation 1991, were considered and have been adjusted temporarily against the three vacancies in this grade. In order to make the picture more clear, the temporary post created for census 2001 in respect of Directorate of Census Operation, Manipur are mentioned below:

1. Statistical Investigator Gr. II	Group B	1 Post
2. Assistant	Group C	1 Post
3. Confidential Assistant	Group B	1 Post
4. Sr.Artist/Artist	Group C	1 post
5. Statistical Investigator Gr.III	Group C	2 Posts

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6. Compiler	Group C	3 Posts
7. U.D.C.	Group C	2 Posts
8. Daftry	Group D	1 Post

Of the above posts, only three posts of Compiler were vacant. Since the petitioner earlier worked as LDC during census 1991, he was not considered suitable for the post of Compiler.

3. The contents of para 3 of the contempt petition are again misconceived and misleading and the same are denied. It is respectfully submitted that it is apparent from the order of the Hon'ble Tribunal that the same was a conditional order. In fact, in view of the order of the Hon'ble Tribunal, the petitioner was to be absorbed on availability of the vacancy for which he could be suitable. In fact, there was no such vacancy available for which he could be suitable. As far as the post of Compiler is concerned, the same was to be filled up by the persons who had earlier worked in the same post (earlier known as Computer) and have longer length of service of census 1991. Thus, persons who had worked as Compiler and had longer length of service in census operation 1991 have been adjusted against these temporary vacancies. A copy of the engagement order issued to the three persons are enclosed herewith as Annexure- 'A'.

4. The contents of para 5 of the contempt petition are absolutely false, frivolous and misleading and therefore the same are denied. It is respectfully submitted that the order of Hon'ble Tribunal was a conditional one. As per the order passed by the Hon'ble Tribunal, the petitioner was to be re-engaged on availability of vacancy for 2001 census subject to his suitability. As there was no such vacancy created for census operation 2001 for which the petitioner could be suitable, he could not be re-engaged. As far as the posts of Statistical Investigator Gr. II, Assistant, Confidential Assistant, Sr. Artist, Stat.Assistant, UDC and Daftry are concerned, there was no vacancy in these posts and moreover the applicant was not suitable for these posts. As

far as the post of Compiler is concerned, the same was to be filled up by the persons who had earlier worked in the same post (earlier known as Computer) and have longer length of service of census 1991. Thus, persons who had worked as Compiler and had longer length of service in census operation 1991 have been adjusted against these vacancies. Thus, the respondents have not disobeyed the order of the Hon'ble Tribunal in any manner, far less in a wilful manner. The respondents have deep and high regards for the orders of the Hon'ble Tribunal and they cannot think or act contrary to the spirit of the order of the Hon'ble Tribunal. From a perusal of the draft charges it is apparently clear that even the petitioner could not point out a single act of omission or commission of the respondents which may tantamount to contempt of court.

5. The contents of para 6 of the contempt petition are absolutely false, and misleading and therefore the same are denied. It is respectfully submitted that no time limit was specified by the Hon'ble Tribunal in the order dated 02-03-2000. In the said order, the Hon'ble Tribunal was pleased to direct that the petitioner may be absorbed in the vacancy that will occur for census of 2001 in a suitable post. So, the order was conditional and was to take effect on fulfilment of condition No.1 i.e. availability of vacancy and condition No. 2 i.e. subject to suitability of the petitioner for the vacancy. For census operation 2000-2001, no such vacancy for which the petitioner could be treated suitable was created and hence he could not be re-engaged. It is, therefore, submitted that the respondents have not violated or disobeyed the order of the Hon'ble Tribunal in any manner, far less willfully or deliberately. The respondents cannot even think or act contrary to the order of the Hon'ble Court and the respondents have deep and high regard for the Hon'ble Court. The petitioner is trying to create selfstyled conflict with the judiciary which is not in existence anywhere at all. As no vacancy for which the petitioner could be suitable was available, he could not be absorbed.

6. The contents of para 7 of the contempt petition are again exposing the petitioners. From the averments contained in this para it is apparently clear that while the petitioner is aware of the fact that no contempt of court has been committed by the petitioner, once the Hon'ble Court is involved and ordered, the respondents are bound to implement the same. However, the order has to be implemented as per the spirit of the same i.e. on fulfilment of the condition imposed by the Hon'ble Court itself.

7. It is respectfully submitted that the contempt petition has been filed in abuse of the process of law and not for the purpose of justice.

8. It is respectfully submitted that the contempt petition is misconceived and devoid of merit and deserves to be dismissed.

Prayer

In the above premises of the case, it is most respectfully prayed that the Lordships of this Hon'ble Tribunal may most graciously be pleased to dismiss the contempt petition.

And I sign this affidavit in this 16th day of November, 2001 at Imphal.

J. D. Dnamani S. S.

Deponent

Identified by me.

B. C. Patil
Advocate 16/11/01

Solely affirmed and declared before me by the deponent, who is identified by Shri B. C. Patil Advocate on this 16th day of November, 2001

D. P. Banoor
Magistrate/Advocate

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ANNEXURE - 'A'

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भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

कार्यालय जनगणना परिचालन निदेशक, मणिपुर
OFFICE OF THE DIRECTORATE OF CENSUS OPERATIONS,
MANIPUR

सं/No. A.12021/5/98-Apptt(Pt)/135

Yumnam Leikai,
इम्फाल-795001

Imphal-795001

July 30, 2001

O R D E R

Whereas the Hon'ble Central Administrative Tribunal, Guwahati Bench in its order dated 16-2-2000, 2-3-2000, 22-12-99, 16-2-2000, 20-1-2000, 16-2-2000 and 22-12-99 in respect of OAs 52/2000, 82/2000, 364/99, 50/2000, 415/99, 51/2000 and 363/99 respectively, directed the respondents (Govt.) to absorb/consider the applicants against the temporary posts to be created in connection with the Census 2001 and whereas the Hon'ble High Court, Guwahati in its order dated 7-6-2001 in respect of writ Petitions No. 2531/2001 to 2537/2001 which were filed by Government against the aforesaid orders of the Hon'ble Tribunal, upholding the Hon'ble Tribunal's orders with modifications, directed to offer the vacancies in the Census posts to all the retrenched of the previous Census including the applicants in the order of their seniority i.e., the duration of temporary services rendered by them in the previous Census.

Whereas 3(three) temporary posts of Compiler (known as Computer earlier) sanctioned upto 28-2-2002 created for Census of India 2001 are lying vacant in this Directorate.

Whereas as per the directions of the Hon'ble High Court contained in its order dated 7-6-2001, the seniority list of the retrenched Census employees based on the length of the temporary service rendered by them in the previous Census has been prepared and 3(three) retrenched have been found eligible for (three) vacancies of Compiler as they broadly meet the recruitment qualifications.

Now, therefore, as per directions of the Hon'ble High Court, the following seniormost retrenched employees of 1991 Census in the grade of Compiler are hereby re-engaged to the short term vacant posts of Compiler in the pay scale of Rs. 4000-100-6000/- w.e.f. the date of their joining duty till 28-2-2002 or till the abolition of the posts whichever is earlier :

- (1) Smt. Usham Kamila Devi
- (2) Md. Abdul Kalam Shah
- (3) Shri Thokchom Basanta Singh

..... 2/-

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The re-engagement of the above retrenchees will be bound by the following terms and conditions :-

- (1) Their re-engagement will not bestow upon them any right for regularisation in the posts in which they are appointed and in any other posts and their services shall be terminated at any time without assigning any reason thereof ;
- (2) As the posts are created to attend to the additional work of Census of India 2001 and likely to be discontinued on or before 28-2-2002 their services shall stand terminated on the discontinuation/abolition of the temporary posts created for Census of India 2001 and the Govt. shall have no liability thereafter.
- (3) The re-engagement is given strictly as per seniority as per the directions of the Hon'ble High Court in the aforesaid order against the available vacancies.

S. Birendra Singh
(S. Birendra Singh)
Asstt. Director of Census
Operations, Manipur

Memo No. A.12021/5/98-Appptt(Pt)/ Imphal. the 30th Jul/01

- Copy to :-
- 1) The applicants of the OAs mentioned above for information.
 - 2) The Registrar General, India
2/A, Mansingh Road, New Delhi
w.r.to JRG's letter No. A.28011/
35/2000-Ad.II dated 23-7-2001 for
information.
 - 3) The Pay & Accounts Officer(Census).
AGCR Building, 4th Floor, D-Wing.
New Delhi-110002
 - 4) The HC/Asstt. of this office for
information and necessary action.
 - 5) Other relevant files.

int. V. Kamala Singh
Sh. G. V. Singh
31-7-2001
Cur - Basu Singh
Th. Lakshon Singh
Abdul Kalam Shah
1-8-01

S. Birendra Singh
(S. Birendra Singh)
Asstt. Director of Census
Operations, Manipur

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