

72/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

11

(DESTRUCTION OF RECORD RULES, 1990)

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closed date-28/01/2002

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disposed date-12/10/01

O.A./T.A No...172/2000

R.A/C.P No...53/2001

E.P/M.A No...230/2000

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3. Judgment & Order dtd. 22/02/2006. Received from H.C/Supreme Court  
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SECTION OFFICER (Judl.)

FORM NO. 4

( See Rule 42 )

# In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 172/2000

OF 1999

Applicant(s)

Ajit Kr. Das

Respondent(s)

Union of India and others.

Advocate for Applicant(s)

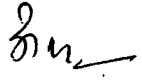
Mr. B. Malakar.

Advocate for Respondent(s)

C.G. Se.

Notes of the Registry	Date	Order of the Tribunal
<p>19.5.00</p> <p>Present : The Hon'ble Mr A.K.Mishra, Judicial Member.</p> <p>Heard Mr B.Malakar, learned counsel for the applicant and considered the O.A. and also the interim prayer.</p> <p>The applicant was working in Census department in 1991 and on termination of his service an O.A. was preferred in the past in which there was a direc- tion by the Tribunal that applicant be absorbed/appointed in a suitable post. Against that order a Writ Petition was filed by the Union of India before the Hon'ble Gauhati High Court. The said Writ Petition was accepted and result- antly the order of this Tribunal was reversed. However, there was a direction by the Hon'ble Gauhati High Court vide its order dated 7.10.1999 passed in</p>	19.5.00	

contd..

Notes of the Registry	Date	Order of the Tribunal
<p>23-5-2000 Copy of the order dtd-19-5-2000 issued to the learned counsel for the parties vide D/No 1420 to 1421 dtd. 24/5/00.</p>	19.5.00	<p>Writ Petition No.664/99 that "Shri Ajit Kumar Das shall also be considered by the respondents alongwith similar other applicants .....". Learned counsel for the applicant submits that in spite of this direction and the applicant having submitted his representation on 19.4.2000 to the authorities concern the applicant has not received any call letter for interview proposed to be held by the department on 29th and 30th May 2000, as is evident from the call letter dated 26.4.2000 which might have been sent to the other candidates. It is further contended by the learned counsel for the applicant that applicant's name has not been sponsored by the Employment Exchange in pursuance of the departmental notification for sponsoring the names of the candidates. Resultantly he prays that the interview should be stayed till decision of the case.</p> <p>Having considered all these facts I do not propose to stay the procedure of filling the posts as adopted by the respondents by interviewing the prospective candidates. However, in the circumstances of the case and looking to the direction of the Hon'ble Gauhati High Court it is hereby directed that respondents shall consider the case of the applicant for appointment alongwith the candidates sponsored by the Employment Exchange for filling the notified posts in the Census Department. It is made clear that the candidature of the applicant should not be rejected only on the ground of non sponsorship of his candidature by the Employment Exchange to the department.</p> <p>List on 21.6.2000 for admission.</p> <p style="text-align: right;">   Member (J) </p>

3 OA 172/00

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Notes of the Registry	Date	Order of the Tribunal
	21.6.00	There is no Bench today. Adjourned to 12.7.00. 870 h.
	12.7.00	Present : Hon'ble Mr.S. Biswas, Administrative Member.  None for the applicant. The case is adjourned and posted for admission on 8.8.00. s. Biswas Member (A)
mk	8.8.00	There is no Bench. Adjourned to 13.9.00. 870 h.
	13.9.00	No Bench. To be listed on 27.9.00. 870 h.
	27.9.00	Present : Hon'ble Mr. Justice D.N.Chowdhury, Vice-Chairman. Mr. B.Malakar, learned counsel for the applicant and Mr. A. Deb Roy, learned counsel for the respondents.  Put up the matter on 25.10.2000.  Vice-Chairman
trd	25.10.00	None appears for the applicant. List on 27.11.00 alongwith M.P.No . 230 of 2000 for orders.  Vice-Chairman
lm	27.11.00	List again on 25.12.00 for admission on the prayer of Mr B.Malakar, learned counsel for the applicant.  Vice-Chairman

24-11-2000  
No. written statement  
has been filed by  
the respondents.  
Rao

pg AMJ  
27/11

Notes of the Registry	Date	Order of the Tribunal
No. u/s has been filed By 2.1.2001	5.12.00	Mr. B. Malakar, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. for the respondents. List it on 3.1.2001 for further orders.
No. written Statement has been filed. By 6.2.01	3.1.01	List the matter on 6.2.01 alongwith M.P.No.230 of 2000.
No. written Statement has been filed. By 20.3.01	8.2.01	Heard Mr. N.Das, learned counsel for the applicant and Mr. A. Deb Roy, learned Sr. C.G.S.C. Application is admitted. No further notice need be issued. Respondents have already submitted its reply in the Misc. Petition. Mr. Deb Roy submitted that the reply submitted in Misc. Petition may be treated as written statement in the instant O.A. Prayer allowed. List the matter for hearing on 21.3.2001.
No. written Statement has been filed. By 27.3.01	21.3.01	Mr.B.Malakar learned counsel for the applicant mentions that the matter has been earlier placed before the Hon'ble Vice-Chairman. He prays that the matter may be placed before Hon'ble Vice-Chairman for hearing. Place the matter before Hon'ble Vice-Chairman

Vice-Chairman

Vice-Chairman

Vice-Chairman

Member

lm

28-3-2001 - 10/11/21 to magdun  
no to 10/11/21

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Notes of the Registry

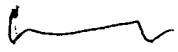
Date

Order of the Tribunal

10.4.2001

Heard the learned counsel for the parties.  
Hearing concluded. Judgment delivered in open  
court, kept in separate sheets. The application  
is allowed. No order as to costs.

nkm

  
Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal

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

**WRIT PETITION(C) NO.7949 OF 2001**

1. The Union of India,  
represented by the Secretary to the Govt of India,  
Ministry of Home Affairs, New Delhi.
2. The Registrar General of Census Operations,  
New Delhi.
3. The Director of Census Operations, Assam,  
Guwahati.

... PETITIONERS.

-Versus-

Shri Ajit Kumar Das,  
S/o Sri Madan Ch Das,  
Borjhar, Kamrup.

... RESPONDENT.

**P R E S E N T**

**HON'BLE THE CHIEF JUSTICE MR.B.SUDERSHAN REDDY  
HON'BLE MR.JUSTICE H.N.SARMA**

For the petitioner : Mr.D.C.Chakraborty, Central Govt  
Counsel

For the Respondent : Mr.B.Malakar, Advocate.

Date of hearing & judgment : February 2, 2006.



**JUDGMENT AND ORDER**  
**(ORAL)**

**REDDY, CJ:**

The Union of India invokes the extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking to quash the decision dated 10.04.2001 made in Original Application No.172/2000 on the file of the Central Administrative Tribunal, Guwahati Bench, Guwahati.

2. Few relevant facts are required to be noted for the purpose of effective disposal of this writ petition in order to decide as to whether the impugned order of the tribunal suffers from any errors apparent on the face of the record requiring our interference in exercise of certiorari jurisdiction. The question that arises for our consideration relates to absorption of the respondent/applicant in the services of the Director of Census Operations, Assam, Guwahati. This Court by order dated 22.09.1999 made in W.P(C) No. 664/99 while modifying the order of the Central Administrative Tribunal issued appropriate directions so far as the Respondent/applicant is concerned directing the petitioners herein to consider the case of the respondent/applicant along with others for appointment in any regular vacancy that may arise in the Directorate of Census Operations in the light of the judgment rendered by the Supreme Court in Union of India vs. Dinesh Kumar Saxena, reported in (1995) 29 ATC 585.

3. Pursuant to the directions so issued by this Court, the respondent/applicant was required to appear in the interview before the

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Board on 29.5.2000/ 30.05.2000. The Respondent/applicant accordingly appeared, but so far no decision was taken for his absorption in the service. It is under those circumstances, the respondent/applicant once again invoked the jurisdiction of the Tribunal seeking directions to the writ petitioners herein for his absorption and regularization in service.

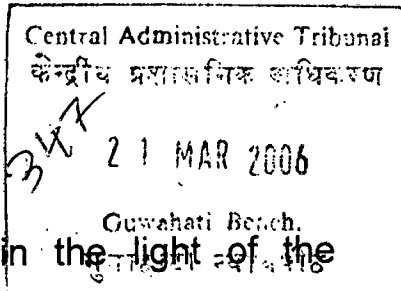
4. The petitioners herein submitted a detailed reply/ written statement in which it is stated that the respondent/applicant was ordered to submit his application in standard form along with attested copies of certificates with a further direction to submit the school certificate relating to educational qualification, in original, which he had submitted at the time of his registration in the Employment Exchange. The case set up by the petitioners herein is that instead of submitting the certificate as required, he submitted an application on 06.06.2000 along with a certificate issued by the Headmaster, Palasbari Anchalik High School dated 19.9.1991. Thereafter he was once again asked to submit the certificate in original, which he had submitted to the Employment Exchange at the time of registration. The respondent/applicant once again submitted another application in prescribed form along with the certificate dated 19.09.1991 issued by the Headmaster of the concerned High School.

5. The learned Tribunal came to the conclusion that the petitioners herein are not justified in insisting for production of the same original certificate, which was submitted by the Respondent/ applicant at the time of his registration in the Employment Exchange and accordingly directed to consider the case of the respondent/ applicant for his regularization without insisting any more for the production of the same certificate produced by him in the Employment Exchange.

6. We fail to appreciate as to what error has been committed by the Tribunal in issuing such directions to the writ petitioners. It is not the case of the petitioners that the certificate produced by the Respondent/applicant in the Employment Exchange is completely different than what has been produced by him pursuant to the directions of this Court, though an attempt is made to make a statement for the first time in this writ petition, such plea was not taken by the writ petitioners in their written statement filed in the Tribunal. After all, what case of the respondent applicant is required to be considered by the writ petitioners is for the lowest post of Chowkidar and it is not a case for fresh recruitment, but for absorption into the service of the writ petitioners pursuant to the directions issued by the Tribunal and this Court. It is also necessary to notice that in the earlier litigation the Tribunal directed the petitioners herein to consider the case of the applicant for his absorption without insisting for sponsorship of his candidature by the Employment Exchange. That order passed by the Tribunal had merged into the order passed by this Court and yet the petitioners are insisting the respondent/applicant to produce the certificate, which he had produced before the Employment Exchange at the time of registration.

7. We do not find any justification on the part of the petitioners to insist the applicant to produce the certificate from the Employment Exchange and more particularly, when this Court already directed the petitioners to consider the case of the respondent/applicant without insisting for sponsorship by the Employment Exchange. The Tribunal had taken the over all facts and circumstances into consideration and passed a just and equitable order with which we are not inclined to interfere in exercise of powers under certiorari jurisdiction. The writ petitioners are accordingly directed to consider the case of the

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respondent/ applicant for absorption in service in the light of the directions issued by the Tribunal as well as this Court.

8. This writ petition fails and is accordingly dismissed with no order as to cost.

Sd/- HN SARMA  
JUDGE

Sd/- BS REDDY  
CHIEF JUSTICE

Memo No. HC.XXI 3451-54 R.M. dtd. 18.3.06

Copy forwarded for information and necessary action to :

1. The Union of India, represented by the Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General of Census Operations, New Delhi.
3. The Director of Census Operations, Assam, Guwahati.
4. Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Rajgarh Road, Bhangagarh, Guwahati-781005. He is requested to acknowledge receipt of the following case records. This has a reference to his letter No. CAT/GHY/68/2001/Juddl/835 dtd. 28-8-03.

Enclo :

1. O.A. 172/2000 with Judgment Part 'A'.
2. G.P. 53/2001
3. M.P. 230/2000

By Order

Asstt. Registrar(I&E)  
Gauhati High Court, Guwahati

*Chiranjit*  
16/03/08

CENTRAL ADMINISTRATIVE TRIBUNAL ::  
GUWAHATI BENCH.

O.A./~~XXX~~ No. .172 . . . . of 2000

DATE OF DECISION 10.4.2001.....

Shri Ajit Kr Das

PETITIONER(S)

Mr B. Malakar

ADVOCATE FOR THE  
PETITIONER(S)

VERSUS -

The Union of India and others

RESPONDENT(S)

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

ADVOCATE FOR THE  
RESPONDENTS

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

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble

Vice-Chairman



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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

• Original Application No.172 of 2000

Date of decision: This the 10th day of April 2001

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

Shri Ajit Kr Das,  
Resident of Village Borjhar,  
P.O. Borjhar,  
District Kamrup.

.....Applicant

By Advocate Mr B. Malakar.

- versus -

1. The Union of India, represented by  
The Registrar General,  
Census Operation,  
New Delhi.

2. The Director of Census Operation,  
Assam,  
Guwahati.

.....Respondents

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

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

Heard Mr B. Malakar, learned counsel for the applicant and  
Mr A. Deb Roy, learned Sr. C.G.S.C.

2. The issue relates to permanent absorption of the applicant with respondents. The matter was already adjudicated upon by the Tribunal which was carried upto the High Court by the respondents. The High Court by order dated 22.9.1999 in W.P.(C) No.664 of 1999, however, modified the order of the Tribunal, so far the applicant, Shri Ajit Kumar Das, was concerned. By the aforementioned judgment the High Court directed the respondents to consider the case of the applicant also along with others for appointment in any regular vacancy that may arise in the Directorate of Census Operations in the light of the judgment rendered by the Supreme Court in Union of India vs. Dinesh Kumar Saxena, reported in (1995) 29 ATC 585. It appears that the applicant was, in fact, asked

to appear before the Interview Board on 29.5.2000/30.5.2000. But, according to the applicant till now no action has, so far, been taken for regularisation of his service. Hence this application.

3. The respondents submitted their reply and stated that the applicant was ordered to submit his application in standard form alongwith attested copies of Certificates to the Assistant Director of Census Operations, Assam for the post of Chowkidar/Peon. The applicant was directed to submit School Certificates relating to his educational qualification, in original, which he had submitted at the time of his registration in the Employment Exchange. The applicant submitted an application dated 6.6.2000 alongwith a certificate No.183 issued by the Head Master, Palasbari Anchalik High School on 19.9.1991. According to the respondents the applicant was again asked to submit his School Certificate in original, which he had submitted to the Employment Exchange at the time of his registration, as the certificate submitted by the applicant alongwith his application dated 6.6.2000 was issued on 19.9.1991 only. In pursuance to the direction of the respondents, the applicant submitted an application in prescribed form alongwith certificate dated 19.9.1991 issued by the Head Master of the Palasbari Anchalik High School. If the respondents had any doubt about the certificate, they could have made enquiry from the concerned Head Master instead of keeping the matter alive insisting on the applicant for production of the certificate that the applicant produced before the Employment Exchange in 1984. Admittedly, the certificate was issued by the Head Master concerned. The aforesaid certificate is not a University Certificate. Such certificate only indicate about his attending of school and the time he left the school. There is no justification for insisting on production of the certificate of 1984.

4. Taking into consideration all the aspects of the matter, I direct the respondents to consider the case of the applicant for regularisation with utmost despatch as per the order of the Tribunal merged in the order

Of.....

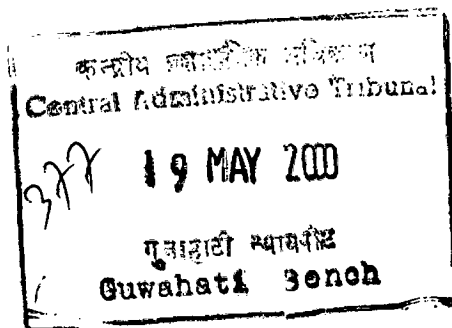
of the Division Bench of High Court on the basis of the certificate dated 19.9.1991 issued by the Head Master without insisting any more. It is expected that the respondents shall take the matter with all seriousness and complete the exercise as expeditiously as possible, preferably within two months from the date of receipt of the order.

5. The application is allowed. There shall, however, be no order as to costs.

  
( D. N. CHOWDHURY )  
VICE-CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH GUWAHATI

O.A.NO. 172/2000

Sri Ajit Kr.Das .....Applicant

-Vs.-

Union of India and Others...Respondent  
(Census)

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Filed by -  
Ajit Kr. Das  
Shri: 18  
R. Palakdas  
Advocate  
18/5/20

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

An application under section 10 of the  
~~Cantact~~ Administrative Tribunal Act 1985

Date of filing

Registration No. 172/2000

Signature

Registrar.

1. Particulars of the  
Applicant

: Ajit Kr. Das  
S/o Sri Madan Ch. Das  
Resident of Village Borjhar  
P.O. Borjhar,  
District Kamrup

(a) Particulars of the  
Respondent.

- : 1. Union of India represented  
by the Registrar General,  
Census Operation.  
2/A Mansing Road,  
New Delhi
2. The Director of Census Operation.  
Assam, G.S. Road,  
Guwahati-6

A Das

1.(b) Particulars for  
service of notices

: As above

(c) Particulars of  
the order against  
which this application  
has been made

: Denial of appointment to the  
applicant defying the orders  
passed by the Tribunal and the  
High Court.

2. Jurisdiction of Tribunal: The applicant declares that  
the subject matter of this  
application is within the  
Jurisdiction of this Tribunal.

3. Limitation

: The applicant further declares that  
the application is  
within the limitation prescri-  
bed in Section 21 of the  
Central Administrative Tribunal  
Act 1985.

4. Facts of the case

: 1. That the applicant was  
appointed as a Farash under the  
Respondent No. 2 vide office  
order memo No. DCO(E)1/89/  
9265 dtd. 7990 by the Deputy  
Director of Census operation.  
His appointment was temporary  
and had carried the pay scale  
of Rs. 750-12-870-EB-14-940 per  
month plus other allowances as  
permissible under Central Govt.  
Rules as amended from time to  
time. The appointment was purely  
temporarily and is terminable  
at any time without notice and  
assigning any reason there of.

A copy of the appointment  
order is annexed herewith and  
marked as Annexure A to this  
application.

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contd..

(ii) On being appointed as above the  
xx applicant continued till 31.12.93 when  
by a common order issued by the Respondent No.2  
vide memo No. DCO(E) 97/80 Vol.1 dtd.21.12.93  
terminated the service of the applicant and  
others on the ground that the post in which  
appointment was made was related to 1991 census  
and there being no sanction the services of  
the applicant and others were terminated.

(iii) That the applicant alongwith 20 other  
employees filed a common application before this  
Tribunal which was registered as OA No. 269/93.  
The Hon'ble Tribunal being prima facie satisfied  
granted an interim order dtd 30.12.93 staying  
the order of termination dtd. 21.12.93. This stay  
order was however vacated by the Hon'ble Tribunal  
by an order dtd. 7.4.94 on the plea of the  
respondents that these post were not available  
after 31.12.93. While vacating the stay order  
the Director of Census operation, Assam was  
restrained from making any appointment of out-  
siders in the event of fresh sanction/creation  
of such posts of computer, LDC, Assistant  
Compiler, Peon and Farash and shall appoint  
these applicants against such vacancy or  
other vacancies that may arise in his depart-  
ment (Census Operation) to which applicants

contd...

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are illegible and in such matters for appointment age of the applicant shall not stand as bar.

A copy of the order is annexed herewith and marked as Annexure B to this petition .

(iv) That the applicant begs to state that the stay order having been vacated the matter could not be heard for 1 reason or the other and ultimately on 5.6.98 the Application was disposed of rejecting the prayer of 20 applicants and allowing the case of the present applicant. The operative portion is quoted below:-

"our finding above will not however be applicable in this particular case to Sri Ajit Das, Farash Applicant No. 19 in as much as terms of his appointment is different from those of the other appointment. According to appointment letter dtd. 7.9.90 (Annexure-18) (name shown therein is Ajit Das Son of Madan Ch. Das Kamrup and it has not been disputed and he is not the same as Ajit Das applicant No. 19) He was not appointed for 1991 Census. No material was placed before us by the Respondent that he was actually appointed against the post specially created for the 1991 Census. According to the appointment letter he was appointed as temporary employee. "

It is true that there is a stipulation in the order dtd. 7.9.90 .His appointment could be terminated at any time without notice and assigning any notice and he had accepted the terms of the record since he was not particularly appointed for 1991 census. Once, since, he joined the service , his service will have to be governed

A Das

by service rule and law relevant thereto . The respondent would not have terminated his service on the ground that sanction had expired as have been done in the case. Further it may be mentioned here that the name of applicant no. 19 Ajit Das appeared ~~xx~~ in Serial No. 22 Farash in the office note dtd. 1.12.93 produced by the respondents before us . In the facts and circumstances the impugned order dtd. 21.12.93 in so far as it relates to Sl.No. 27 Ajit Das, Farash mentioned therein is not sustainable in law and accordingly it is hereby set aside to the question. The respondents are directed to reinstate the applicant no. 19 Ajit Das Farash and treat him as in continued service from 1.1.94 with all service benefit including monetary. (See page 7 and 8 of the Judgment paragraph 4)

- (v) That it was further observed by the hon'ble Tribunal following the decision of the Apex Court in Union of India Vs. Dinesh Kr.Saxena 1995(29) ATC 585 ends of justice will be made if the Directorate of Census operation U.P. is directed to consider those respondents who have worked temporary in connection with 1981 and 1991 census operation and who have been specifically retrenched , for appointment in any regular vacancies which may arise in the Directorate of Census operation and which can be filled up by the Directorate recruitment if such employees are otherwise qualified and illegible for these posts.

A copy of the judgment is annexed herewith and marked as Annexure C to this petition.

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- (vi) That the applicants begs to state that there after the respondents preferred a Review Application for review of the Judgment in so far as it related to the present application. The Review application which was numbered as 12 of 1998 was dismissed vide order dtd 3.12.98. It is pertinent to mentioned here that the respondents filed 2 affidavits in the O.A. and in those wirtten statement no plea was taken that the applicant was appointed for 1991 Census. In the Review Application the plea was however taken which could not substantiated by the respondents.
- (vii) That against the judgment and order of the Tribunal in O.A. no. 269/93, the Union of India filed a written statement Application before the Hon'ble Gauhati High Court which was registered as WP(C) 664/99. In this application some documents were produced which were never produced before the Tribunal during the period of 5 years when the OA was pending. The Hon'ble High Court on a erroneous assumption of facts allowed the writ petition vide judgment and order dtd. 22.9.99 and set aside the finding of this Tribunal relating to the case of the present applicant. Against the judgment and order the applicant filed a Review Application which was numbered as RA 85 of 1999 and this Review application was also dismissed vide order dtd. 14.12.99 however it was observed that the applicant would be entitled to consideration as a retrenced employee for reinstatement
- Copies of the Judgment and orders in WP(C) 664/99 and RA 85/99 are annexed herewith and marked as Annexure D and E to this petition respectively.

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(viii) That the applicant begs to state that before the order of termination was issued by the respondent the applicant was treated as a permanent employee of the Directorate as on 1.10.93 and which may be seen from the certificates issued by the office of the Respondent No. 2.

A copy of the said certificate is annexed herewith and marked as annexure F to this petition.

(ix) That the applicant begs to state that by this time 2001 census has started and the Respondent No. 2 has proposed to fill up some post by deputation from central/ State Government departments on adhoc basis. A circular to this effect was issued by respondent No. 2 on 24.2.2000. Accordingly names of interested persons to work on such deputation were sought for by the respondent No. 2.

A copy of this circular is annexed herewith and marked as Annexure G to this application.

(x) ~~That~~ That the applicant begs to state that after passing the judgment by the Tribunal in Q.A. No. 269/93 and also by the Hon'ble High Court the applicant has approached the respondent No. 2 time and again to give him such employment to maintain his livelihood. But his case has not been adhered to by the respondents. Now the applicant reliably learnt that the respondent No. 2 has invited the names of candidates from the District Employment Exchange ~~and~~ Guwahati and when the applicant contacted the District Employment Exchange to recommend his name then the applicant was told that since he is over aged,

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his name would not be recommend. The applicant begs to ~~state~~ point out that the Hon'ble Tribunal while vacating the stay order made it specifically clear that age should not stand as bar for consideration the case of the applicant. The Apex Court also granted relaxation of age in the case of the Union of India-Vs.-Dinesh Kr.Saxena. This being the position the respondent deliberately and intentionally refrain from issuing any direction to the employment Exchange relating to the issue granted to retrenchme employees and therefore the employment Exchange preferred not to recommend the name of Applicant.

(xi) That the applicant further learns that the names being so forwarded by District Employment Exchange Guwahati interview for appointment is scheduled to be held on 25.2.2000 and 30.5.2000 for appointment of unskilled employees and once the interview is held the respondent No. 2 shall be under an obligation to publish the select list and appoint the person so selected and in that case the applicant will have no way out despite having direction from the Court. The interview stated to be held. is therefore required to be suspended and the respondent no.2 shall be directed to consider the case of the Applicant.

A copy of the call letter is annexed herewith and marked as annexure-H to this application.

contd..

A DCB

- (5) LEGAL GROUND: That there is specific order from the Court and in respect of the appointment including concession of age for the retrenchment employees, it was incumbent on the part of the Respondent No. 2 to issue such notification of age, concession etc to the Employment Exchange and if that is not being done there is every possibility of leaving out the applicant from consideration. The applicant is entitled to consideration on the basis of court's order and therefore the Hon'ble Tribunal should issue necessary direction in this respect.
- (6) REMEDIES EXHAUSTED : The applicant files numbers of application before the Respondent No. 2 for consideration of his case for appointment but that was not considered.
- (7) MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT : The earlier OA filed by the applicant and others has since been finalised and the case before the Hon'ble ~~Tribunal~~ High Court has also been disposed. At present there is no case pending in any court by the applicant.
- (8) RELIEF SOUGHT : In the premises aforesaid the applicant prays (i) that as a retrenchment employee the applicant should be given preference in the matter of employment by Respondent No. 2 for 2001 census -and- any other relief which the hon'ble Tribunal may be pleased to grant.

contd..

A DCB

(9) INTERIM ORDER

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: The applicant prays that pending disposal of this application, the interview stated to be held on 25.9.2000 and 30.5.2000 be stayed.

(10) PARTICULARS OF THE  
IPO

1. No. of IPO - 06497249  
ii. Issuing post-office *Gunnahat*  
iii. Post office -  
at which  
payable.

(11) ENCLOSURES

- : The applicant annexed the following documents with the application.
1. Copy of the appointment letter.
  2. A copy of the order vacating the stay order in OA 269/93
  3. Copy of Judgment in OA 269/93
  4. Copy of the Judgment in WP(c) 664/99 and copy of the Judgment issued RA 85/99 *OFFICE OF REGISTRAR*
  5. A copy of the certificate issued by the office of the Respondent no.2
  6. Circular issued by the Respondent -2.
  7. Copy of the interview letter.

verification..

A does

VERIFICATION

I Sri Ajit Das son of Sri Madan Chandra Das  
resident of village Borjhar, P.S. Borjhar district, Kamrup  
do hereby verified that the statement made in the  
accompanying petition in paragraph 1, 2, 3, 4 (I, II, III, VI, VIII, IX, X,  
XI), 5, 6, 7, 8, 9, 10, 11 are true to my knowledge and those  
made in paragraph 4 (IV, V, VI),  
being matters of records which are true to my information  
derive from which I believe to be true and the rest  
are my humble submission before this Hon'ble Tribunal.

And I signed this verification on this 18<sup>th</sup> day of May, 2000 at Guwahati.

<sup>Mr.</sup>  
Ajit Das  
Signature.

Art IV Census. 1991 Census.  
1993 terminated with 20 others.  
2 Applicants - came to Cat - 20 rejected  
Applicants' case was not disturbed  
w.p. by respondents - CAT's order not  
aid.  
2000 - Census - name to be ignored -

Police case instituted against

ANNEX - A

फोन, कार्यालय  
Phone, Office 31954

No. DCO(E)1/89/9265

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

जि० एस० रोड, उलुबारी, गुवाहाटी 781007  
G. S. ROAD, ULUBARI, GUWAHATI-781007

दिनांक गुवाहाटी

Dated Guwahati the 7th Sept/90

OFFICE ORDER

Shri Ajit Chandra Das, son of Shri Madan Chandra Das of Village Barjhar in the District of Kamrup (Assam) is hereby appointed temporarily as Farash in the office of the Director of Census Operations, Assam, Guwahati in the scale of pay of Rs.750-12-870-EB-14-940/- p.m. plus other allowances as admissible under the Central Govt. Rules as amended from time to time.

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

He is to join immediately with a medical fitness certificate from authorised medical attendant in proper form.

*J.C. Bhuyan*  
( J.C. BHUYAN ) 7/9/90  
DY. DIRECTOR OF CENSUS OPERATIONS  
ASSAM : GUWAHATI  
DATE: 7.9.90

MEMO NO. DCO(E)1/89/9266-71

Copy to:

1. The Pay and Accounts Officer (Census), New Delhi-2.
2. The Asstt. Director of Census Operations (T), D.D.O.
3. Accounts Branch.
4. File No. DCO(E)20/78/Vol. II/
5. Office Superintendent.
6. Shri Ajit Ch. Das, Vill-Barjhar,  
P.O. Palasbari, P.S. Azara, Kamrup, Assam.

*J.C. Bhuyan*  
( J.C. BHUYAN )  
DY. DIRECTOR OF CENSUS OPERATIONS  
ASSAM : GUWAHATI.

*Tony*  
*Sal*

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

OA NO.269/93

SANTANU GOSWAMI & 20 ORS.  
VS.

UNION OF INDIA &amp; ORS.

APPLICANT

RESPONDENT

PRESENTSHON'BLE MR. JUSTICE S. HAQUE, VICE CHAIRMAN  
HON'BLE SRI G.L. SANGLYINE, MEMBER (ADMN.)For the applicant ..  
For the respdt. ..Mr. B. Malakar, Adv.  
Mr. S. Ali, Sr. CGSC,  
Mr. G. Sarma, Addl. CGSC.Dt. 7.4.94ORDERS

Pg

7.4.94.

This Misc. Petition 1/94 arising out of O.A.269/93 is heard for disposal. Learned Sr.C.G.S.C. Mr S. Ali makes submissions on behalf of petitioners Union of India and others (Respondents of O.A.269/93). Also heard learned Sr. counsel Mr A.M. Mazumdar assisted by Mr B. Malakar on behalf of opposite party applicants. The prayer is to vacate the stay order dated 30.12.93 passed by the Tribunal in O.A. No.269/93. Operation of the impugned Notification/Office Order No.DCO(E)97/80 Vol.I dated 21.12.93 (Annexure D to the Original Application) terminating services of the 21 applicants had been stayed vide Order dated 30.12.93.

The applicants numbering 21 are employees in the office of the Director of Census Operation, Assam, Guwahati in different grades. They were appointed during the periods 1991, 1992 and 1993 vide appointment Orders under Annexures

contd.

1992(3) SLT 34  
1990 Lab LC 242

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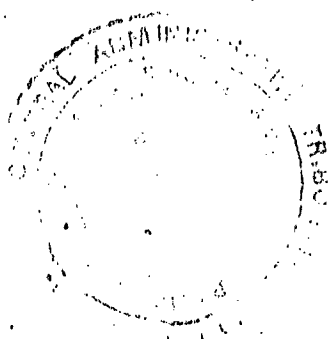
M.P.1/94(U.A.269/93)

contd. A(2) to A(20) in the posts of Computers (15), LD.C.(3), Assistant Compiler(1), Peon(1) and Faras(1). The terms and conditions in their appointment orders/ letters were similar and as follows:-

(a) That the posts were purely temporary in connection with 1991 census and would be abolished by retrenching the incumbents to which the Government would have no liability ; and

(b) The incumbents were appointed purely on temporary and adhoc basis and were likely to continue upto 31.12.93 only subject to termination even before 31.12.93. All the applicants joined/joining joined/under the above terms and conditions.

/ service



The Director of Census Operation, Assam, Guwahati by Office Order No.DCO(E)97/80 Vol.I dated 21.12.93 terminated services of the applicants with effect from 31.12.93. It was stated in the said order that the appointments were purely on temporary and adhoc basis against 1991 census posts which had been sanctioned by the Govt. of India till 21.12.93 and consequently services of the applicants had been terminated with effect from 31.12.93 i.e. with the expiry of the sanction of these posts which had already been indicated in their appointment letters. The termination order appeared to be in conformity with the terms and conditions of the appointment orders/letters.

On 30.12.93, we had taken into consideration of the Memorandum dated 15.12.93 of the employees association to the Registrar General of Census Operation, New Delhi praying for retaining their

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contd. services after 31.12.93 and also the letter of the Director of Census Operation, Assam dated 9.12.92 requesting Registrar General, Census Operation, India for fresh sanction in continuation to 31.12.93 and thereupon we granted the stay order in anticipation that the Registrar General and Census Commissioner, Govt. of India might create continuance of sanction beyond 31.12.93. But the D.O. letter No.27/79/93-Ad.IV dated 5.1.94 of the Registrar General and Census Commissioner, India addressed to the Director of Census Operation, Assam, Guwahati made the picture clear that decision was taken not to further extend the sanction of these posts beyond 31.12.93 and that the works of these posts had been completed and there is absolutely no justification for extension or retention of these posts and that as these posts are not available from 1.1.94 so there is no work to be attended to and that there is no possibility for continuance of sanction of these posts under any circumstances. Therefore, our expectation as on 30.12.93 for further sanction beyond 31.12.93 became fruitless. This being the position, it will not be justified on our part to allow to continue the stay order dated 30.12.93.



Accordingly, our order dated 30.12.93 staying operation of the impugned Notification/Office Order No.DCO(E)/97/80 Vol.I dated 21.12.93 (Annexure-D to the Original application) is hereby vacated.

We further direct respondent No.3 the Director of Census Operation, Assam, not to appoint any outsider in  
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[Signature]



M.P.1/94.

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the event of fresh sanction/creation of such posts of Computers, L.D.C., Assistant Compiler, Peon and Farash and shall appoint the applicants against such vacancies or other vacancies that may arise in his department (Census Operation) to which applicants are eligible and in such matter for appointment age of the applicants shall not stand as bar.

This Misc. Petition is disposed of.

Inform all concerned immediately.

Sd/-(Justice S. Haque)  
Vice-Chairman  
Sd/-(G.L. Sanglyine)  
Member(A)

Memo. No. 1384

Dated : 7.4.94.

Copy for information to :-

1. The Secretary to the Govt. of India, Ministry of Home Affairs, New Delhi-1.
2. The Registrar General of Census Operation, 2/A, Man Singh Road, New Delhi.
3. The Director, Census Operations, Assam, Guwahati, G.S. Road, Ghy-7.
- ✓ 4. Mr. B. Malakar, Adv., CAT. Guwahati Bench.
5. Mr. S. Ali, Sr. CGSC, CAT. Guwahati Bench, Guwahati-5.
6. Mr. G. Sarma, Addl. CGSC, CAT. Guwahati Bench, Guwahati-5.

7/6/94  
SECTION OFFICER(J)

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Said

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 269 of 1993.

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

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

Shri G.L.Sanglyine, Administrative Member.

Shri Santanu Goswami and 20 others. . . . Applicants.

By Advocate Shri B.Malakar

- Versus -

1. Union of India  
represented by Secretary,  
Ministry of Home Affairs,  
New Delhi.

2. The Registrar General of Census Operations,  
New Delhi.

3. The Director,  
Census Operations, Assam,  
Guwahati.

. . . Respondents.

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

ORDER

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

Twenty one applicants who were employees under the Director of Census Operation, Assam had submitted this Original Application. They were allowed vide order dated 30.12.1993 to join in this single application. The names of the applicants, their designations and dates of appointments are indicated herein below :-

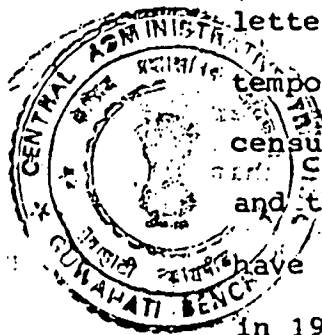
<u>Sl.No.</u>	<u>Name</u>	<u>Designation</u>	<u>Date of appointment letter</u>
1.	Shri Santanu Goswami,	Computer	13.3.1991
2.	Shri Indrajit Das	"	1.4.1991
3.	Shri Ranjan Goswami	"	3.6.1993
4.	Shri Tara Charan Kalita	"	3.6.1993
5.	Shri Bikul Hazarika	"	3.6.1993
6.	Shri Arjun Baruah	"	3.6.1993
7.	Shri Nagen Rabha	"	3.6.1993

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Sl.No.	Name	Designation	Date of appointment letter
8.	Shri Jibon Malakar,	Computer	3.6.1993
9.	" Hara Kanta Das	"	14.7.1993
10.	Md. Khalekur Zaman,	"	23.7.1993
11.	Shri Harish Ch. Rabha	"	23.7.1993
12.	Smt. Ratna Bhattacharjee.	"	10.9.1993
13.	" Archana Barman	"	10.9.1993
14.	Shri Karuna Das	"	10.11.1993
15.	Smt. Geeta Devi	"	10.11.1993
16.	Shri Jiten Kr. Deka,	Asstt. Compiler	10.11.1993
17.	" Bimalananda Das,	Lower Division Clerk	3.6.1993
18.	Smt. Anima Hazarika	"	10.11.1993
19.	Shri Sailen Doley	"	10.11.1993
20.	" Jayanta Das	Peon	22.3.1991
✓ 21.	" Ajit Kr. Das	Farash	7.9.1990. ✓

Except in the case of appointment of the Peon and the Farash mentioned above whose case will be mentioned separately all appointments were made on purely temporary and adhoc basis.

In respect of those appointed prior to 1993 the appointment letters specifically mention that the post was purely temporary created specifically in connection with the 1991 census work and would be abolished on completion of the work and the incumbent will be retrenched and the Government would have no liability thereafter. In respect of those appointed in 1993, the appointment letters stipulate in addition to the above that the appointment is adhoc in nature and likely to continue upto 31.12.1993 only or may be terminated before that date or the extended period, as the case may be by giving one month's notice from either side or one month's emoluments in lieu thereof. Shri Jayanta Das, Peon was appointed temporarily against the post which was purely temporary created specifically in connection with the 1991 census work and would be abolished on completion of the work and the incumbent will be retrenched and the Government would have no liability



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thereafter. Shri Ajit Kr. Das, Farash, was appointed temporarily in the office of the Director of Census Operation, Assam, Guwahati. The appointment was purely temporary and was liable to be terminated at any time without notice and assigning any reason thereof. His appointment letter does not refer to the Census Operation of 1991 or that it was an ad hoc appointment. On the basis of their appointment letters the applicants joined their respective posts. On 21-12-1993 the respondent No.3, the Director of Census Operation, Assam, Guwahati issued the impugned order dated 21-12-1993 to the effect that the services of the applicants stood terminated with effect from 31-12-1993 on the ground that the sanction of these posts expired on 31-12-1993. Hence this Original Application.(O.A. for short).

2. In this O.A. the applicants have prayed that the impugned order No.DCO(E)97/80/Vol.I dated 21-12-1993 terminating their services be quashed. Mr.S.Ali, learned Sr.C.G.S.C., has opposed the prayer of the applicants and supported the action of the respondents. According to Mr.Ali, the applicants have no reason to be aggrieved with the impugned order. They were appointed for a specific period on ad hoc basis with a specific purpose. They have no right to continue in the posts indefinitely. In support of this contention reliance was placed on the decision of the Hon'ble Supreme Court, in Director, Institute of Management Development, U.P. , Versus - Pushpa Srivastava (Smt) reported in (1992) 21 ATC 377. Mr.S.Ali further submits that the terms of their appointments are clearly written in the respective appointment letters and the

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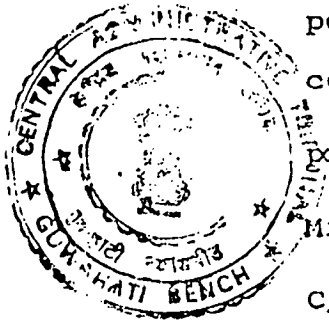


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applicants had consciously accepted those terms and joined the services in spite of those explicit terms. The posts against which the applicants were appointed were sanctioned upto 31-12-1993 and there was no sanction for continuance of the posts thereafter. He also submits that there was no necessity to continue the posts after that date because as far as the works relating to the posts occupied by the applicants are concerned, the work was completed. Mr.B.Malakar, the learned counsel for the applicants, has disputed the contention of Mr.Ali. According to Mr.Malakar census is a continuing process and therefore, there is no question of completion of its work. In fact, records would show that the works were still continuing after 31-12-1993. Moreover, the respondents have practised discrimination in terminating the services of the applicants while retaining those of other employees who were similarly appointed as the applicants.

3. We have heard learned counsel of both sides. The Directorate of Census Operation, Assam is under the Ministry of Home Affairs, Government of India and has 1 permanent employees. However, in order to carry out census operations relating to a particular census temporary posts were created. According to the records produced by Mr.Ali 15 post of Computers, 3 posts of Lower Division Clerks, 2 posts of Peons and 1 post of Farash were created and sanctioned vide order No.2/5/29-RG(Ad II) dated 6-4-1990, the competent authority in connection with the 1991 census for the Directorate of Census Operations, Assam in so far as this O.A. is concerned. All the posts

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were temporary and were sanctioned upto 28-2-1991 according to the order. No post of Assistant Compiler was sanctioned. This is also evident from the letter dated 20-10-1997 submitted by Mr. Malakar. Appointment to Assistant Compiler was according to the letter dated 20-10-1997 made against the consequential vacancies caused by promotion to the post of Computer/Statistical Assistant/ Investigator created purely for the 1991 census. The applicants were appointed in the posts of Computer, Assistant Compiler, Lower Division Clerks, Peon and Barash. On 30-11-1993 the Government of India, Ministry of Home Affairs communicated its decision that all the posts created in connection with the 1991 census were at present sanctioned upto 31-12-1993 only. Further, that the posts will stand abolished on that date and no further extension of the posts was necessary. Thereafter the impugned order dated 21-12-1993 was issued terminating the services of the applicants in this O.A. among others. In the O.A. presently before us it is clear from the letters of appointment of the applicants including that of Bimalananda Das, LDC, that the posts were created for the 1991 Census Operations only. According to the letter No. 2/4/90-RG(Ad- II) dated 30-11-1993 produced by Mr. Ali sanction to the posts was available upto 31-12-1993 only and there was no renewal of the sanction after that date. In the circumstances it is clear that according to the respondents there was no work concerning the posts after that date or that there was no necessity to retain the temporary posts for carrying out the pending works if any. It may be mentioned here that in State of Himachal Pradesh Vs. Suresh Kumar Verma & another reported in 1996(1) ATJ 618/1996 SCC(L&S) 645



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services of Daily Wages employees were terminated on ground of absence of work. The Hon'ble Supreme Court upheld the termination of service thus:

"It is seen that the project in which the respondents were engaged had come to an end and that, therefore, they have necessarily been terminated for want of work. The Court cannot give any direction to re-engage them in any other work or appoint them against existing vacancies. Otherwise, the judicial process would become other mode of recruitment de hors the rules."

Mr. Malakar submitted that the 1991 census work was not completed as on 31-12-1993 and, in fact, some persons were retained beyond that date. He based his submission on the letter No. DCO(E) 7/78/Vol. IX dated 20-10-1997 written by the Joint Director of Census Operation, Assam to the Registrar General, India. This letter however, is of no help to the applicants. There are different posts performing different tasks in census operations. The work contemplated must necessarily relate to the work concerning the particular posts. The letter dated 20.10.1997 on which Mr. Malakar relied on is concerning the ad hoc Lower Division Clerks/Assistant Compiler who could be accommodated in the core posts. It has not been shown by the applicants that they are also such ad hoc employees who could be accommodated likewise. Even if they are of the same type, the principle of last-come-first-go may apply and the applicants have not shown whether those persons mentioned by Mr. Malakar whose names have not been disclosed were senior or junior to them. The decision making authority of the respondents is competent to make decision regarding requirement of work in their organisation. It is apparent from the fact that sanctions were extended upto 31-12-1993 that after making assessment of the

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requirement of work again the order dated 30-11-1993 mentioned above was issued which is applicable all over the country. In the circumstances we are of the view that the competent authority of the respondents had not arbitrarily discontinued the sanction of the posts. In the facts and circumstances we do not find any reason to interfere with the decision of the respondent No.2, the Registrar General, India to discontinue sanction to the temporary posts specially created for the 1991 Census Operation. Consequently, we find no merit in the prayer of the applicants that the impugned order is to be quashed. Their prayer cannot therefore be allowed.

4. Our findings above will not however be applicable in this particular case to Ajit Kumar Das, Farash, Applicant No.19, in-as-much as the terms of his appointment are different from those of the other applicants. According to his appointment letter dated 7-9-1990, Annexure-18 (name shown therein is Sri Ajit Chandra Das son of Sri Madan Chandra Das of Borjhar, Kamrup and it has not been disputed that he is not the same as Ajit Kumar Das, applicant No.19) he was not appointed for the 1991 census. No material was placed before us by the respondents to show that he was actually appointed against a post specially created for the 1991 census. According to the appointment letter he was appointed as temporary employee. It is true that there is a stipulation in the order dated 7.9.1990 that his appointment could be terminated at any time without notice and assigning any reason thereof and he had accepted the terms of appointment. But, since he was not particularly appointed for the 1991 census, once he joined the service



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and the law relevant thereto. The respondents could not have terminated his service on the ground that sanction had expired as had been done in this case. Further it may be mentioned here that the name of applicant No.19, Ajit Kumar Das, does not appear against Sl."22.Farash" in the office note dated 1-12-1993 produced by the respondents before us. In the facts and circumstances the impugned order dated 21-12-1993 in-so-far as it relates to serial No.27 Ajit Kumar Das, Farash, mentioned therein is not sustainable in law and accordingly it is hereby set aside to that extent. The respondents are directed to reinstate the applicant No.19, Shri Ajit Kumar Das, Farash and treat him as in continuous service from 1-1-1994 with all service benefits including monetary.

5. The remaining 20 applicants had worked with the respondents for sometime before 31-12-1993 and some of them had worked since 1991. Though they are not successful in this application on merit yet we take note of the submission of Mr.Malakar that they can be accommodated in other vacancies available under the Control of Respondent No.3. In this regard we may refer to the decision of the Hon'ble Supreme Court in Union of India Vs. Dinesh Kumar Saxena, reported in (1995) 29 ATC 585 in which it was held among others as follows: -

"Ends of justice will be met if the Directorate of Census Operations, U.P. is directed to consider those respondents, who have worked temporarily in connection with 1981 and/or 1991 census operations and who have been subsequently retrenched, for appointments in any regular vacancies which may arise in the Directorate of Census Operations and which can be filled by direct recruitment, if such employees are otherwise qualified and eligible for these posts."

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Other directions such as relaxation of age were also issued. We have no doubt that Respondent No.3 will take action in the lines indicated in the aforesaid judgment if occasion for making appointment arises in near future. The applicants may individually approach him, if they desire, in this regard.

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

Sd/- VICE CHAIRMAN

Sd/- MEMBER (ADMN)



Certified to be true Copy  
प्रमाणित प्रतिलिपि

*[Signature]*  
9/6/98  
Section Officer (J)  
आनुमान अधिकारी (न्यायिक शाखा)  
Central Administrative Tribunal  
केन्द्रीय प्रशासनिक उच्च न्यायालय  
Guwahati Bench, Guwahati-8  
गुवाहाटी न्यायाधीश, गुवाहाटी-8

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Annex - 25

तारीख Date fixed for notifying the requisite number of stamps and folios.	देने की तारीख Date of delivery of the requisite stamps and folios.	प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	तारीख Date of making over the copy to the applicant.
6/10/99	6/10/99	7/10/99	7/10/99

-2-

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

W.P.(C) NO.664 OF 1999

1. Union of India,  
represented by the Secretary,  
Ministry of Home Affairs,  
New Delhi.
2. The Registrar General of Census  
Operation, New Delhi.
3. The Director, Census Operation,  
Assam, Guwahati-1.

- PETITIONERS

- Versus -

1. The Central Administrative  
Tribunal, Guwahati Bench.
2. Sri Ajit Kumar Das,  
Son of Sri Madan Chandra Das,  
Borjhar, Kamrup.

- RESPONDENTS

P R E S E N T

THE HON'BLE THE CHIEF JUSTICE.

THE HON'BLE MR JUSTICE D.BISWAS.

For the petitioner - Mr. K.K. Mahanta,  
Central Govt Standing  
Counsel.

For the respondents - Mr. B. Malakar,  
Advocate.

Date of Hearing and  
Judgment

- September 22, 1999.

JUDGMENT AND ORDER  
(ORAL)

D.BISWAS, J.-

This petition under Article 226 of the Constitution of India has been initiated at the instance of the Union of India whereby the judgment and order dated 5th June, 1998 passed in Original Application No.269 of 1993 has been challenged.

2. As many as 21 employees of the Directorate of Census Operation, Assam moved the Central Administrative Tribunal for consideration of their respective posts in which they were appointed for carrying out census operation started in the year 1991. The learned Tribunal after due deliberation of the matter directed the respondents to consider the case of all the employees along with Shri Ajit Kumar Das, Farash in the light of the decision of the Supreme Court in Union of India - Vs - Dinesh Kumar Saxena reported in (1995) 29 ATC 585. It would appear that the learned Tribunal thereby meant for consideration of the cases of the retrenched employees for appointment in regular vacancies which may arise in the Directorate of Census Operation if such employees were found fit and eligible for the post. This part of the order passed by the learned Tribunal has not been assailed,

We have ....

*True copy  
sent*

4. We find sufficient reason in the submission of Shri Mahanta to come to the conclusion that the posts that created for a specific purpose and specific period and the appointment order issued against any of the posts sanctioned and created by the said order has to be continued within the limitation prescribed. In view of this, we are of the opinion that although the appointment letter issued to the applicant No.19 is in a different language it does not specifically mention that it was a temporary and adhoc appointment for the purpose of 1991 census yet his appointment order cannot be considered in isolation with other appointment letters to continue and fill up of the posts created by the same order of sanction.

5. It would further appear that after creation of the posts, the matter was referred to the Employment Exchange for forwarding the names of eligible candidates for appointment to the various posts with a clear indication that the appointment shall be purely temporary and ceased on completion of the census works are over. The Employment Officer was also requested to invite the candidates accordingly before they sponsore their names.

6. Situated as above, we are unable to make out a case to plead the appointment of the applicant No.19 on a different footing. The intention of the appointing authority has been clear in all documents except the appointment letter issued to him. In our considered

opinion ...

*True copy*  
*[Signature]*

Annex E

28

Noting by Office or Advocate	Sl. No.	Date	Office notes, reports, orders or proceeding with signature.
		14.12.99	<p><u>PRESENT :</u></p> <p>THE HON'BLE THE CHIEF JUSTICE</p> <p>THE HON'BLE MR. JUSTICE D.BISWAS</p> <p>(BISWAS, J.) :-</p> <p>Heard Mr. B.C. Malakar, learned counsel for the review petitioner.</p> <p>By this petition the petitioner/respondent seeks for a review of the judgment and order dated 22.9.99 passed by this court in WP(C) No.664/99. Shri Malakar submits that the appointment of the respondent/petitioner, Shri Ajit Chandra Das, was not in connection with any post created by the Registrar General of India, vide order dated 6.4.90. After careful consideration of the materials on record, this Court came to the finding that the respondent/petitioner was one of those employees appointed for the census operation of 1991 only and the appointment was for a specific period, that is, with effect from 1.4.90 to 28.2.91. Shri Malakar wanted to distinguish the case of Shri Das by submitting that the letter dated 24.4.90 relied upon by the appellants/respondents, would show that the appointment of Shri Das was not against any of the posts created vide order dated 6.4.90. Shri Malakar further pointed out that the language employed in the appointment letter would also show that the appointment was not meant for any specific period.</p> <p>We have given our careful consideration to the submissions of Shri Malakar and we are unable to agree with him that the appointment of Shri Das was not for the specific period in connection with the census operation of 1991. The language employed</p>

1991

True my

ing by Office or ocate	Sl. No.	Date	Office notes, reports, orders or proceeding with signature.
		14.12.99 (contd.)	<p>in the appointment letter will not in any way make any difference when we, under all circumstances, find that the appointment was meant for the works in connection with the census operation of 1991. Shri Das stands on equal footing with other retrenched employees and he will be entitled to consideration as a retrenched employee for reemployment along with other similarly situated retrenched employees as and when the occasion arises.</p> <p>This review petition, in our opinion, has no merit. It is accordingly dismissed.</p> <p><i>Sd/- Brijesh Kumar</i> Chief Justice</p> <p><i>Sd/- D. Biswas</i> Judge</p>

*Devash Ch. Goswami*  
18/12/99

*18/12/99*

*True my  
for*

ANNEX-F

(25)

30

AB

No.DCQ/AC/57/70-74/Pt.I/8317

भारत सरकार  
GOVERNMENT OF INDIA  
भारत सरकार  
प्रधान मंत्री कार्यालय  
जनगणना विभाग : असम : गुवाहाटी  
Directorate of Census Operations  
Assam, Guwahati

the 15th Oct. '93.

TO WHOM IT MAY CONCERN

Certified that the monthly pay of Shri Ajit Ch. Das, a permanent employee of this Directorate as on 1/10/93 is as stated below :-

Basic pay	Rs. 786.00
D.A. -	Rs. 762.00
H.R.A.-	Rs. 150.00
I.R. -	Rs. 100.00
Spl. C.A.-	Rs. 20.00
W.A. -	Rs. 15.00

Total Rs.1833.00

Deduction :-

G.P.F. Contribution	Rs. 100.00
C.G.E.G.I.S. -	Rs. 15.00
Festival adv. reco.	Rs. 60.00

Total Rs. 175.00

Total net salary Rs. 1833.00 (-) 175.00 = 1658.00

(Rupees one thousand six hundred fifty eight) only.

*B.L. Sarma*  
15/10/93

( B.L. SARMAH )  
ASSISTANT DIRECTOR OF CENSUS OPERATIONS  
ASSAM : GUWAHATI.

28

*From*  
*govt*



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

मि. एस. रोड, उलुबारी, गुवाहाटी-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 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)50/99/2173-2273 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.

True and  
full

- : 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. R. DAS )

DIRECTOR OF CENSUS OPERATIONS : ASSAM  
GUWAHATI

True copy  
for

NOTICE  
OF POSTING  
IN  
ASSAM  
GUWAHATI

the 26th April/2000

To

Shri/Smti \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Your name has been sponsored by the Employment Exchange for Unskilled Applicants, Guwahati for Group 'D' posts in the O/o the Director of Census Operations, Assam, Guwahati G. S. Road, Guwahati-781007.

You are therefore asked to appear before the Interview Board on 29.5.2000/30.5.2000 at 11 A.M. in the office of the Director of Census Operations, Assam, Guwahati.

You are also asked to bring all of your testimonials in original regarding your educational qualification, age etc.

No TA/DA will be paid for the interview.

( A. MEDHI )  
ASSTT. DIRECTOR OF CENSUS OPERATIONS  
ASSAM :: GUWAHATI.

True copy  
by