

30/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 247/02

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

FROM No. 4
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDER SHEET

Original Application No. 247/02

Misc Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicants. A. G. Singh Jais

-Vs-

Respondant(s) H. O. I Jais

Advocate for the Appellant(s) B. K. Sharma, S. Saxena
U. K. Nair

Advocate for the Respondant(s) K. N. Choudhary, Mr. I. Choudhary
Mr. R. S. Choudhary

| Notes of the Registry | Date | Order of the Tribunal |
|-----------------------|------|-----------------------|
|-----------------------|------|-----------------------|

5.8.2002

Heard Mr. B. K. Sharma, learned Sr. Counsel for the applicants.

The application is admitted, call for the records.

Issue notice to show cause as to why the interim order as prayed for shall not be granted, returnable by three weeks.

List the case on 3.9.2002 for further orders.

B. K. Sharma
Member

[Signature]
Vice-Chairman

bb

3.10.02

List again on 13.11.02 to enable the respondents to file written statement.

B. K. Sharma
Member

[Signature]
Vice-Chairman

pg

Steps along with
envelopes received.

Notices prepared
and sent to D. Section
for issuing of the
same to the respondents
through Regd. post with
A.D. vide D.No-2198 & 2201
Dtd-13.8.02

9/8/02

3.9.02

List on 3.10.2002 for orders on the prayer of Mr. A. Deb Roy, learned Sr. C.G.S.C. for the Respondents.

K. I. Choudhury
Member

Vice-Chairman

mb

18/11. Due to circuit sitting at
Sawangan, the case is adjourned
to 25/11/2002.

Mb.
A. K. Choudhury
18/11

25.11.02

Heard Mr. S. Sarma, learned counsel for the applicant. On the prayer of Mrs. R. S. Choudhury, learned counsel for the respondents further four weeks time is allowed to the respondents to file written statement. List on 2.1.2003 for orders.

No written statement
has been filed.

Vice-Chairman

mb

22.1.03

2.1.2003. Due to vacation, the case is
adjourned to 23/1/2003 by order.

Mb.
A. K. Choudhury

23.1.2003

Put up again on 20.1.2003 to enable the respondents to file written statement. This order is passed on the prayer of Mr. I. Choudhury, learned counsel for the respondents.

Member

Vice-Chairman

mb

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20.2.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S. Biswas, Administrative Member.

Put up the matter for hearing on 3.4.2003. The respondents may file written statement, in the meantime.

No. written statement has been filed

2.4.03

mb

S. Biswas
Member


Vice-Chairman

3.4.2003. Division Bench did not sit today.
The case is adjourned to 19.5.2003.

No. W/S has been filed.

14.5.03

19.5.2003 Present : The Hon'ble Mr. Justice D.N. Chowdhury, Vice-Chairman.
The Hon'ble Mr. S.K. Hajra, Administrative Member.

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


Member


Vice-Chairman

pg

6.6.2003

Copy of the Judgment has been sent to the D/Sec. for issuing the same to the applicant as well as to the L/Advocate for the Respondent.

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

247 and 248
O.A. / R.A. No. of 2002.

19-5-2003.
DATE OF DECISION

.... Shri Gopal Singh & Ors. APPLICANT(S).

.... Sri S.Sarma. ADVOCATE FOR THE
APPLICANT(S).

- VERSUS -

.... Union of India & Ors. RESPONDENT(S).


.. Sri I. Choudhury. ADVOCATE FOR THE
RESPONDENT(S).

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

THE HON'BLE MR S.K.HAJRA, ADMINISTRATIVE MEMBER

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 Ho'ble Vice-Chairman



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application Nos. 247 and 248 of 2002.

Date of Order : This the 19th Day of May, 2003.

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

The Hon'ble Mr S.K.Hajra, Administrative Member.

O.A. 247/2002

1. Shri A.Gopal Singh,
Vill-Top,
Dist. Imphal, Manipur.
 2. Md Hatim Ali,
Vill-Yairipok Bamon Keikai,
Manipur.
 3. Md Hasim Khan,
Vill-Top,
Dist. Imphal, Manipur.
 4. K.S.Theimi,
Vill-Hundung,
Dist. Ukhrul, Manipur
- . . . Applicants

O.A. 248/2002

Md Habeebur Rahman,
C/o Son of Late A.Rasheed Khan,
Commissioner, Govt. of Manipur,
Manipur Secretariat (Old),
Imphal, Manipur

. . . Applicant

By Advocate Sri S.Sarma.
- Versus -

1. Union of India,
represented by Secretary to the
Govt. of India,
Ministry of Home Affairs,
New Delhi.
 2. The Registrar General of India,
2/A Mansing Road, New Delhi.
 3. The Director of Census Operations,
Manipur, Imphal.
 4. The Assistant Director of Census Operations,
Manipur, Imphal.
- . . . Respondents
- By Advocate Sri I.Choudhury.

O R D E R

CHOWDHURY J.(V.C)

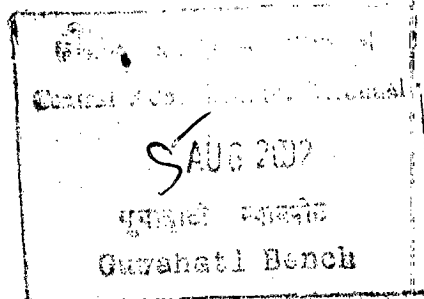
Both O.A.247/2002 and 248/2002 are taken up together for consideration since the matter involve identical facts as well as law and the reliefs claimed for are also similar

nature.

2. The matter relates to appointment in the census department. The issues raised in the O.A.s are covered by the decisions rendered by the High Court in Writ petition (C) Nos. 7132/02, 7133/02, 7134/02, 7135/02, 7136/02 and 7137/02, Registrar General & Census Commissioner of India Vs. Smt. Ratna Bhattacharjee & another etc. disposed on 31.1.2003. It has been stated at the Bar that against the aforementioned judgment of the High Court the applicants preferred S.L.P before the Supreme Court of India and the same were also dismissed on 21.4.2003. In the light of the above decisions these two O.A.s are liable to be dismissed. Hence dismissed. No order as to costs.


(S.K. HAJRA)
ADMINISTRATIVE MEMBER


(D.N. CHOWDHURY)
VICE-CHAIRMAN



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Title of the case : O.A. No. 247 of 2002

BETWEEN

Shri A.Gopal Singh & ors. Applicants.

AND

Union of India & ors. Respondents.

I N D E X

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Filed by : Miss U.Das, Advocate.

Regn.No.:

File :C:\W67\A.GOP

Date :

Filed by
the applicants through
Alsha Das,
Advocate
5/8/02

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An application under section 19 of the Central
Administrative Tribunal Act.1985)

D.A.No. of 2002

BETWEEN

1. Shri A.Gopal Singh.
Vill-Top.
Dist.- Imphal, Manipur.
2. Md Hatim Ali.
Vill- Yairipok Bamon Leikai,
Manipur.
3. Md Hasim Khan.
Vill- Top.
Dist.- Imphal Manipur.
4. K.S.Theimi.
Vill- Hundung.
Dist.- Ukhrul.
Manipur.

..... Applicant.

- AND -

1. The Union of India.
Represented by Secretary to the
Govt. of India.
Ministry of Home Affairs
New Delhi.
2. The Registrar General of India.
2/A, Mansing Road, New Delhi.
3. The Director of Census Operations.
Manipur Imphal.
4. The Assistant Director of Census Operations.
Manipur Imphal.

..... Respondents.

PARTICULARS OF THE APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION
IS MADE:

This application is directed against the action of
the respondents is not considering the case of the

AG Singh

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applicants for absorption in Census Department against the vacant posts in this Hon'ble tribunal which was subsequently affirmed by the Hon'ble Guwahati High Court.

2. LIMITATION:

The applicant declares that the instant application has been filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

3. JURISDICTION:

The applicant further declares that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

4. FACTS OF THE CASE:

4.1. That the applicants are citizens of India and as such they are entitled to all the rights, privileges and protection as guaranteed by the Constitution of India and laws framed thereunder.

4.2. That the applicants are aggrieved by the action of the respondents is not considering their cases for permanent absorption against the existing vacancies in the light of Judgment and orders passed by this Hon'ble Tribunal which were subsequently affirmed by the Hon'ble High Court. The grievances raised by the applicants in this application and the relief sought for by them are similar and as such they have filed this application jointly invoking Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules 1987.

4.3. That the applicants are all eligible for appointment in Group-C posts under the respondents. Pursuant to sponsoring of their names for appointment against Group-C posts under the respondents and pursuant to their selection and suitability, they were appointed under the respondents.

N

The respondents offered them various posts in the Gr.-C cadre like Hindi Typist, LDC, F.M.P.O. etc. After their such appointment, the applicants performed their respective duties to the satisfaction of all concerned. However, their such services were terminated with effect from 31.12.93. It will be pertinent to mention here that the respondents along with the applicants also appointed some other persons to Group-C Posts along with the applicants under the respondents No.3 and 4 and their services were also terminated w.e.f. 31.12.93.

4.4. That out of those terminated employees two had approached this Hon'ble Tribunal by way of filing OA No. 24/94 and 60/94 making a grievance against the said order of termination. The applicants were A.S.Stephen and Smt.N.G.Makan. The Hon'ble Tribunal was pleased to pass an interim order protecting their services and on the strength of such interim orders they continued in their respective services. Said Mr.A.S.Stephen eventually withdraw his case as he got appointment elsewhere. On the other hand the OA 64/94 was dispose of directing the Respondents to consider her case. Pursuant to such direction her services has been regularised w.e.f. 23.12.98.

Applicants crave leave of this Hon'ble Tribunal to produced a copy of the Judgment and order dated 23.12.98 at the time of hearing of the case.

4.5. That some of similarly situated employees after the aforesaid Judgment approached this Hon'ble Tribunal praying for their reinstatement and regularisation under the Respondents in Group-C Post taking into consideration various guidelines and circulars and also Apex Court Judgment in this regard.

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The Applicants crave leave of this Hon'ble Tribunal to rely and refer upon the aforementioned case at the time of hearing of this case.

4.6. That the applicants begs to state that admittedly they are retrenched employee of Census Department and in the matter of redeployment and regularisation they are entitled to preferential consideration as per the guidelines issued by the Govt. of India from time to time. However, inspite of there being vacancies the Respondents never considered their cases against those vacancies (both long term and short term vacancies).

4.7. That the commencement of 2000/2001 Census Operation both long term and short term vacancies surfaced. The applicants being the retrenched census employee were naturally under expectation that their cases would be considered against those vacancies. However, the Respondents never considered their cases against those vacancies and on deputation basis as well as ad-hoc basis. The applicants having no other alternative had to approach this Hon'ble Tribunal by way of filing DA 364/1999, 52/2000 and 82/2000. The said OAs were disposed of directing the Respondents to consider their cases against available vacancies within a stipulated time frame. Making a grievance against the aforesaid judgments Respondents preferred Review Applications before this Hon'ble Tribunal which were dismissed by this Hon'ble Tribunal by a common judgment and order dated 11.1.01. During the pendency of the review Applications Respondents never implemented the aforementioned judgments although in the Review Applications the Hon'ble Tribunal was not pleased to stay the operation of aforementioned judgments. The Respondents aforesaid

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judgment dated 11.1.01 passed in the Review Applications preferred writ petitions in respect of each of the applicants along with other employees and by a common judgment dated 7.6.01 the Hon'ble High Court was pleased to dismiss those writ petitions. The Hon'ble High Court while dismissing those writ petitions directed the present Respondents to implement the same within time frame.

A copy of the aforementioned Judgment and order dated 7.6.01 is annexed herewith and marked as ANNEXURE-1.

4.8. That the applicants state that after receiving the termination dated 31.12.93 they could not approach this Hon'ble Tribunal because of their poverty to claim a similar benefit as that of applicants in OA 24/94 and 60/94 . The applicants kept on representing their cases before the authority for implementation of the Judgment dated 7.6.01 pointing out the vacancies. However, Respondents were bent upon not to implement the said Judgment and the applicants were again compelled to approach this Hon'ble Tribunal through various Contempt Petitions. It is noteworthy to mention here that during the pendency of the aforesaid proceedings the Respondents issued an order dated 30.7.01 by which some of the similarly situated employees like that of present applicants have been given temporary appointment for a stipulated time period. Those employees were also party in the Common Judgment and order dated 7.6.01 and the Hon'ble Tribunal in that view of the matter closed the contempt petitions taking same to be part implementation.

A copy of the order dated 30.7.01 is annexed as Annexure-1A.

4.8(a). That the applicants state that the respondents have misinterpreted the judgment dated 7.6.01 and passed the aforementioned order dated 30.7.01 and same has been stated to be issued in compliance of the said

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judgment. In fact there are vacancies under the respondents and the present applicants can very well be accommodated in those vacancies. Instead the respondents issued the order dated 30.7.01 accommodating three employees on temporary basis. The respondents have illegally now sought to confine the claim of the applicants against short term vacancies which is contrary to the direction contained in the judgment dated 7.6.01. Applicants thus challenge the order dated 30.7.01 to the extent of same being against the said verdict and if same creates a hurdle for their regular absorption.

4.9. That the applicant begs to state that in the writ petitions filed by the respondents before the Hon'ble High Court the retrenched census employees who were also party along with the applicants, filed an affidavit in opposition pointing out the vacancy position. In the said affidavit in opposition the actual vacancy position was highlighted. It was stated that adequate number of vacancies are in existence to accommodate all such retrenched employees including the applicants. It was also pointed out as to how such census employees have been accommodated in other states. It was only after filing such affidavits on behalf of the present applicants and others retrenched census employee aforementioned Judgment dated 7.6.01 was passed.

A copy of the said affidavit in opposition is annexed herewith and marked as ANNEXURE-2.

4.10. That the applicants state that the Respondents all along have been raising the plea that the applicants could only be adjusted against short term vacancies. It is pertinent to mention here that in Census Department there are long as well as short term vacancies which are still in existence and are likely to continue and reflection of which is apparent in the Written Statement filed by the

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respondents in O.A No 62 of 2002. The Respondents ignoring the claim of the applicants have filled up some those posts bringing persons on deputation and some by way of promotion on ad-hoc basis. Apart from that there are other permanent vacancies which not only the applicants but all the retrenched census employees to very well be accommodated on regular basis. The Respondents have misinterpreted the judgment of this Hon'ble Tribunal which was affirmed by the Hon'ble High Court. The said Respondents have confined consideration of the case of the applicants and concentrated such consideration only in respect of short term vacancies pertaining to Department of Census, Manipur. They have not made any effort to adjust the applicants in long term vacancies available with Manipur Census Department. In fact, the direction of the Hon'ble High Court is not confined only to Census Department, Manipur but same is applicable to the entire Census Department all over India.

4.11. That the applicants states that the Respondents by letters dated 14.2.00 while banning the appointment from open marked laid down the criteria filling up of Group-C&D Posts either by promotion or on deputation. As stated above, in fact many of the vacancies have been filled up on deputation and by way of ad-hoc promotion and in those no such plea has been taken as has been taken in cases of the present applicants. Apart from these vacancies under the Respondents there are many more short term and long term vacancies available to accommodate the present applicants. It is pertinent to mention here that the Written Statement filed by the respondents in O.A No 62 of 2002 (A similar matter) it has been admitted that there are vacancies still in existence. As per their own admission there are 9 (nine) temporary posts which include 2 (two) Gr-B, 6 (six) Gr-C posts and 1 (one) post in the Gr-D cadre. On the other hand

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the respondents in the said Written Statement also have admitted the fact that 17 long term posts in the regular establishment in the office of the respondent No 3 is lying vacant, which include, 3(three) Gr-B posts, 11 (eleven) Gr-C posts and 3 (three) Gr-D posts are lying vacant. Even if the applicants accommodated in short term vacancies for the time being and regularised later on they would have been no occasion for them to approach this Hon'ble Tribunal.

Copies of the letters dated 14.2.00 are annexed herewith and marked as ANNEXURE-3 & 4.

4.12. That the Govt. of India Department of Personal and Administrative Reform has issued certain guidelines regarding redeployment of retrenched employees in terms of which also the case of the applicants is required to be considered. It is stated that initially by the aforesaid guidelines benefit was extended to such employees who have rendered at least 3 years of regular service. Now the benefit has been extended even to the retrenched temporary employees who have put less than 3 years of service. Such a scheme has been made retrospectively w.e.f. 1.1.92.

Copies of the said scheme is annexed herewith and marked as ANNEXURE-5.

4.13. That the applicants state that apart from the vacancies shown in the affidavit in opposition filed in the writ petition filed by the Respondents following vacancies are in existence in Manipur Census Department arising out of retirement on attaining the age of Superannuation or expiry of incumbent. In this connection following list is furnished which is only illustrative not exhaustive.

1. S. Nilamoni Singh - Investigator - retired on 30.8.00.
2. Ch. Ramanda Singh Statistical Asstt. Retired on 31.12.00
3. R.K. Bimol Singh - Investigator - retired on 28.2.01.
4. H. Birbahu Singh - Printing Inspector - expired on

AG Singh

14.4.01.

5. Joy Kumar Singh - Investigator - retired in 1997.

6. Ng. Ino Singh - Investigator - retired in 1997.

7. Sanatomba Singh - Investigator - retired in 1997.

8. Monitombi Singh - Statistical Asstt. - retired in 1997.

The above vacancies to the best of the knowledge of the applicants have not been filled up till date. Even otherwise also if the promotions are affected against would very well be accommodated against the resultant vacancies.

4.14. That the applicants have been already stated that the Respondents have misinterpreted the orders of the Hon'ble Court and there by have sought to deprive the applicants from regular absorption and just to show that the orders have been complied with. After the Judgment of this Hon'ble Tribunal Respondents preferred Review Applications before filing of the writ petitions. During the pendency of the Review Applications although there was no stay of the Judgment passed by the Hon'ble Tribunal the Respondents never implemented the same on the ground of pendency of proceedings. However, now everything has been settled by the Hon'ble High Court in it's Judgment and order dated 7.6.01 leaving no room for the Respondents to any excuse depriving present applicants from re-engagement. Now Respondents are debarred from making any plea that no vacancy is available to accommodate them. After the aforesaid Judgment now there is no room for the Respondents to adopt the "entire" hire and fire" policy. A fair and complete law has been laid down by the Respondents have not implemented the same in its true prospective.

4.15. That the applicants state that the Respondents

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term which is not permissible under the law. The applicants have got their legitimate expectation and for that they have been fighting the long battle before the courts. All the applicants have been pursuing their matter before the concerned authority but same yielded no result in positive. After filing of case initially before this Hon'ble Tribunal by the applicants to assert their rights the Respondents have adopted a vindictive attitude against each one of them and they have adopted all the means and measures to defeat the claim of the applicants. The plea of non availability of vacancy however was not taken by the Respondents in the earlier proceeding but now when the law has been laid down by the Hon'ble High Court the Respondents have raised the plea of non-availability of vacancy only to defeat the mandate of the Judgment. Such an attitude on the part of the Respondents is unbecoming of a model employer and opposed to the principle relating to the public employment. Admittedly, the letters dated 14.2.00 indicates the fact that they have not interpreted the Judgment dated 7.6.01 in its true prospective. The wordings contained in the Judgment dated 7.6.01 however does not leave any room for misinterpretation but the Respondents are bent upon not to implement the same.

The applicants crave leave of this Hon'ble Tribunal to rely and refer upon the pleadings of the Respondents so as to bring home the fact that non-availability of vacancy to accommodate the applicants was never a plea raised on behalf of the Respondents. Such a plea now has been raised by the respondents only to defeat their claim. Applicants further crave leave of this Hon'ble Tribunal to rely and refer upon the representations.

4.16. That the applicants state that respondents that is the Respondents No.3 issued a detailed chart regarding the vacancy position as on 1.3.01 wherein it is seen that number of posts are presently lying vacant, wherein the applicants can be accommodated. As stated above all the applicant possesses the requisite qualification for holding any group-c posts under the Respondents and as such the Respondents ought to have accommodate then in any of those vacancies. Apart from these vacancies the respondent No.3 very recently has sanctioned number of Group-c Posts to Manipur Census Department and said posts are yet to be filled up. The applicants being the experienced hand, the respondents ought to have utilised there service. The applicants have been pursuing the matter but same yielded no result in positive. Having no other alternative, the applicants have come before this Hon'ble Tribunal seeking an appropriate relief.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISION:

5.1. For that the action/inaction on the part of the Respondents depriving the applicants their legitimate claim of absorption and regularisation is per-se illegal and same is opposed to the spirit of the Judgment of the Hon'ble Tribunal which was affirmed by the Hon'ble High Court.

5.2. For that the case of the applicants is required to be considered as per the scheme prepared for absorption of retrenched census employees but the Respondents instead of giving them appointment virtually rejected their claim for regular absorption.

5.3. For that the respondents being a model employer cannot resort to "hire and fire" policy in violation of the constitutional mandate and law laid down by the Apex Court.

5.4. For that the applicants being retrenched Census

AG Singh

employee, they are entitled to get preferential treatment in the matter of appointment instead the Respondents now have adopted the policy not to entertain any plea of the applicants in respect of their appointment even though there are vacancies to accommodate them.

5.5. For that the action/inaction of the Respondents is totally opposed to the spirit of orders passed by the Hon'ble Court.

5.6. For that all the applicants are eligible to hold any group-c post and since there are vacancies available in the office of the Respondents for all fairness, the Respondents are duty bound to accommodate them in any of those vacancies.

5.7. For that the applicants are entitled to get their absorption against any available vacancy through out the country but the Respondents having confine to their cases to Manipur Census Department have acted against the Judgment of the Court.

5.8. For that the case of the applicants having not being considered in it's true perspective, the Respondents are guilty of committing contempt of this Hon'ble Tribunal.

5.9. For that the Respondents have ignored their own circular regarding absorption of retrenched census employee in terms of which they ought to have regularised their services against long term vacancies.

6. DETAILS OF REMEDIES EXHAUSTED:

That the applicant declares that he has exhausted all the remedies available to them and there is no alternative remedy available to him.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:

AG Singh

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The applicant further declares that he has not filed previously any application, writ petition or suit regarding the grievances in respect of which this application is made before any other court or any other Bench of the Tribunal or any other authority nor any such application, writ petition or suit is pending before any of them.

B. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above, the applicant most respectfully prayed that the instant application be admitted records be called for and after hearing the parties on the cause or causes that may be shown and on perusal of records, be grant the following reliefs to the applicant:-

B.1. To direct the Respondent to regularise and/or to absorb the applicants against long term vacancies and to maintain continuation of their services.

B.2. To set aside and quash any existing orders which defeats the claim of the applicants for regularisation.

B.3. Cost of the application.

B.4. Any other relief/reliefs to which the applicant is entitled to under the facts and circumstances of the case and deemed fit and proper.

9. INTERIM ORDER PRAYED FOR:

Under the facts and circumstances of the case the applicants prays for an interim order directing the

AG Singh

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Respondents to accommodate the applicants in any temporary short term vacancy during the pendency of the DA.

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11. PARTICULARS OF THE I.P.O.:

1. I.P.O. No. : 76 576376
2. Date : 16/7/02
3. Payable at : Guwahati.

12. LIST OF ENCLOSURES:

As stated in the Index.

AG Singh

VERIFICATION

I, Shri A.Gopal Singh, aged about 34 years, at resident of Imphal, Manipur, I hereby solemnly affirm and verify that the statements made in paragraphs 1-3, 4.1 to 4.6, 4.10, 4.13 - 4.16 & 5 to 12 are true to my knowledge and those made in paragraphs 4.7, 4.8, 4.9, 4.11, 4.12 are also true to my legal advice and the rest are my humble submission before the Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign on this the Verification on this the 5th day of August of 2002.

Signature.

A Gopal Singh

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)

-Versus-

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

.... Petitioners

..... Respondent.

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

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

-Versus-

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

... Petitioners.

.... Respondent.

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

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

-Versus-

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

... Petitioners

.... Respondent

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

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

-Versus.-

.... Petitioners.

Attested
Advocate.

Attested
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).

-Versus-

..... Petitioners.

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).

-Versus-

..... Petitioners

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)

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.

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Advocate

Attested
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

Amended
Advocate.

Amended
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."

Attested

Advocate.

Attested

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

Attested
Advocate.

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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 Bench Assistant Court Secretary, be given to the counsel for the parties.

Attested
W. S. Dan
Advocate.

Attested
W. S. Dan
Advocate.

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

ANNEXURE-1/A

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 Computer 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

Attes

Advocate

Attested
Usha Das
Advocate

2/-

21-B

3,

- : 2 : -



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.

Kamila Singh
A. Cavill
31-7-2001
B. Singh
Th. Lathor
Shah
1-8-01

Attested

Advocate

S. Birendra Singh

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

= 22 =

O/c

ANNEXURE-2

District : Imphal (Manipur)

IN THE GAUHATI HIGH COURT AT GUWAHATI

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

W.P.(C) No. 2534/2001

Union of India & Ors.

... Petitioners

- Versus -

Dinam Indramani Singh

... Respondent

AFFIDAVIT-IN-OPPOSITION ON BEHALF OF
THE SOLE RESPONDENT

AFFIDAVIT-IN-OPPOSITION

I, Md. Hasim Khan, aged about 31 years, son of Md. Abutab, resident of Top Khounengmuththong, by occupation retrenched census employee, do hereby solemnly affirm and state as follows :

1. That I am the sole Respondent in the abovementioned writ petition. I have gone through the copy of the writ petition and have understood the contents thereof. Save and except the statements which are specifically admitted hereinbelow, other statements made in the writ petition are categorically denied.

2. That before dealing with the various contentions raised in the writ petition, I beg to raise a preliminary objection regarding maintainability of the writ petition. The impugned order under challenge in

Attested
W.D.
Advocate.

Attested
W.D.
Advocate.

this writ petition is a consent order and was passed more than one year back by the Central Administrative Tribunal, Guwahati Bench (hereinafter referred to as "the Tribunal"). Thus the writ petition is also barred by limitation. There being no explanation in respect of the delay in filing the writ petition, same is liable to be dismissed. Thus on both counts viz. that the impugned order is a consent order by and between the parties and that there is unexplained delay in preferring the writ petition, same is not maintainable and liable to be dismissed. There is also suppression of material fact on the part of the Writ Petitioners. The case was disposed of on perusal of the relevant records and when it was found that the relevant scheme was not implemented by the Writ Petitioners. In this writ petition, the Petitioners have projected their case as per their own convenience without highlighting anything as to what transpired and projected in the Tribunal.

3. That with regard to the statements made in paragraph 1 to 7 of the writ petition, I do not admit anything contrary to relevant records. As already stated above, the judgment of the Tribunal is a judgment as per the consent given by and between the parties. The Writ Petitioners have deliberately not stated anything about the review petition filed by them before the Tribunal and the relevant records. None of the contentions now raised in the writ petition were raised in the review petition. The only contention raised was that as per letter dated 14.2.2000 annexed

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[Signature]
Advocate.

[Signature]
Advocate.

to the review application, all posts available for Census of India, 2001 in Group C and D are to be filed in either by production or on deputation basis in accordance with the provisions of recruitment rule. Direct recruitment from open market is not to be made in any case for group C and D posts. These two letters are in direct conflict with the Apex Court decision and the relevant scheme wherein it has been provided that the retrenched census employees will get preference towards filling up the vacancies.

A copy of the review application bearing No. RA 7/2000 is annexed as ANNEXURE-I.

The deponent craves leave to produce the copy of the scheme under OM No. 280217/2/92 Estt(B) dated 22.1.98 issued by the Government of India at the time of hearing of this petition.

4. That the deponent state that the stand of the Respondent as was taken in the Review application is directly in conflict with the aforesaid scheme wherein the need to give preferential treatment to the retrenched employees has been emphasised. The census department knowing it fully well that they are duty bound to give preference to the retrenched census employees under the said scheme did not do so. But on the other hand, they had written letters to other departments to consider the case of the retrenched census employees on priority basis. It will be pertinent to mention here that the so called policy decision apart from being contrary to the said scheme

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Advocate.

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Advocate.

and the Apex Court decision is also later in point of time and will not be applicable to the existing vacancies. Law is well settled that vacancies prior to such policy decision are required to be filled up as per the policy decision in existence at that time. This position was admitted by the Director of Census, Manipur, who has sworn in the affidavit in his show cause reply to the contempt proceeding initiated alleging non-compliance of the Tribunal's order under challenge in this writ petition. In the said show cause reply, it was admitted in para 5 that at the time of delivery, the impugned judgment that the policy of the Government of India in respect of employment for purpose of census work was different. It was also admitted that after the judgment, the matter was taken up with the authorities, but in the meantime there was change in the policy.

5. That the deponent states that in respect of another O.A. No. 182/99 filed by Smti. U. Kamilla Devi, who is also similarly situated with that of the deponent and others and whose case was also disposed of. The Government of India by their letter dated 13.12.99 forwarded a format of the order to be passed towards disposal of the representation in which no such plea, as has been taken now, was raised. In the said letter incorporating the order to be passed, it was stated that the retrenched census employees will get priority in employment in respect of the direct recruit vacancies and that said Smti. Kamilla Devi may avail of these concessions as and when there is any direct

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Advocate.

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recruit vacancy. In the said order, concession regarding maximum age limit, exemption from being sponsored by the Employment Exchange were also record.

All these were produced as records and the deponent craven leave of the Hon'ble Court for a direction to the Writ Petitioners to produce the copy of the said letter dated 13.12.99 containing the order No. A-42011/14/99-Ad.II.

6. That with regard to the statements made in paragraphs 8, 9 and 10 of the writ petition, while denying the contentions raised therein, it is stated that the Writ Petitioners have made a false statement as regards the vacancy position which will be evident from their own letter. In this connection, letter No. A.32012/3/200-Estt. dated 21.6.2000 addressed to the Registrar General of India by the Director of Census, Manipur who incidentally has sworn in the affidavit in the writ petition may be referred to. In the said letter, the said Director has clearly indicated about the vacancy position. Further even after the judgment of the Tribunal, the said Director had issued vacancy notice. By yet another letter No. A.12021(5)/90-Appdt(Pt) dated 25.1.2001, the same very Director who has sworn in the affidavit in the writ petition had intimated the Registrar General of India that there are three vacant posts of LDC. The said letter was written in the context of vacancy position pertaining to LDC. The said Director has also notified the further vacancy position by his letter No. A.11011/10/2001-Estt (Part)

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Advocate.

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Advocate.

dated 10.4.2001. Further there exists 10 retirement vacancies. As per the vacancy position, both permanent and temporary, the deponent states that all the 7 retrenched census employees can be accommodated.

Copies of the letter dated 23.1.2003 and vacancy notice dated 5.9.2003 is annexed as ANNEXURE-2 and 3 respectively.

The deponent craves leave of the Hon'ble Court for a direction to the Writ Petitioners to produce the copies of the other letters mentioned above.

7. That with regard to the statements made in paragraphs 11 to 17 of the writ petition, while denying the contentions raised therein, the deponent begs to state that the Writ Petitioners have adopted a discriminatory treatment in respect of the deponent. the same very Writ Petitioners had on earlier occasion implemented the judgment of the Tribunal in respect of many others who were/are similarly situated like that of the deponent. The Tribunal had on earlier occasion passed similar orders in respect of retrenched census employees of Manipur and Assam. The same very Writ Petitioners have implemented the said judgments. However, an exception has been made only in respect of the deponent and six others. The Writ Petitioners even after the judgment of the Tribunal have given ad-hoc promotion against the vacancies which were directed to be filled up through the deponent and other similarly situated persons. In this connection, it is stated that the Director of Census, Manipur by his letter No.

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W.D.
Advocate.

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W.D.
Advocate.

6.11816/2/87-Cell (Pt)/193 dated 4.2.94 addressed to the Chief Secretary, Government of Manipur had emphasised to extend all possible help for absorption of the retrenched census employees. In the said letter, the scheme under OM dated 4.8.93 issued by the Government of India was also referred to. All these facts were brought to the notice of the Tribunal and the Tribunal in consideration of all these factors was pleased to pass the impugned judgment. Unfortunately, the Writ Petitioners have now turned around from the said scheme.

Copies of the office order dated 23.12.98, letter dated 21.6.2000, 3.10.2000 and letter dated 4.2.94 are annexed as ANNEXURES-4, 5, 6 and 7 respectively.

8. That the deponent states that all the retrenched census employees were appointed, pursuant to the selection and on being sponsored by the Employment Exchange. Regular Selection Committee was constituted to consider their suitability and it was only through such process of selection they were appointed. The Petitioners themselves had written letters to the Secretaries of all the Ministries/Departments of the Government of India vide No. 36/5/91-RG(Ad.II) dated 26.12.91 seeking co-operation and assistance towards absorption of retrenched census employees. Unfortunately they are now adopting a different policy in their own department contrary to the scheme mentioned above and the Apex Court decisions.

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Advocate

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[Signature]
Advocate

A copy of the letter dated 26.12.91 is annexed as ANNEXURE-9.

9. That the deponent submits that although the impugned judgments were delivered by the Tribunal about one and a half year back and there was no stay order operating against the same, they went on merrily without implementing the said judgments and in the process have recruited/promoted persons in the vacant posts, both regular and temporary on adhoc basis to the deprivation of the deponent and others even after the judgments of the Tribunal. The Petitioners instead of being a model employers have taken recourse to falsehood in the instant case and has adopted a discriminatory treatment only in respect of the persons involved in the 7 writ petitions. While on the other hand, similarly situated persons having similar orders of the Tribunal have been regularised. The Petitioners in this manner cannot approbate and reprobate and their attitude against the 7 retrenched employees is unbecoming of a model employer.

10. That the deponent submits that it was under the above circumstances and when the records revealed the mala fide exercise of power by the Writ Petitioners, the impugned judgment came into being upon the concessions granted by the Petitioners themselves being caught in the whirlpool. The Petitioners cannot now adopt a different stand taking shelter of this Hon'ble Court with material suppression of fact. It is respectfully submitted that this Hon'ble Court would be reluctant to

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Advocate.

Attested

[Signature]
Advocate.

12/22/2001

That under the facts and circumstances above, the writ petition is not maintainable and liable to be dismissed with costs.

That the statements made in this affidavit in paragraphs 1, 2 and 4 are true to my knowledge; those made in paragraphs 3, 5, 6, 7 and 8, being matters of records are true to my information derived therefrom and the rest are my humble admissions before this Hon'ble Court.

And I took this affidavit on this the 22nd day of May, 2001 at Gorakhpur.

Identified by me:

Deponent

Advocate's Clerk

Attested

W.D.

Advocate.

Attested

W.D.

Advocate.

CCENLIND"

-31-

सं/No. 12011/3/2000-Ad.IV

भारत सरकार
GOVERNMENT OF INDIA

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

ANNEXURE- 3

2/A Mansingh Road

नई दिल्ली, दिनांक
New Delhi, the

14.2.2000

To

All DCOs

Subject: Ad hoc appointments.

Madam/Sir,

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

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

Yours faithfully,



(JAYASHREE GUPTA)
Joint Registrar General, India

Attested
w/san
Advocate.

Attested
w/san
Advocate.

-32-

By Fax/Speed Post

सं.प्र. 12011/4/2000-AJ.1V
भारत सरकार
GOVERNMENT OF INDIA

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

ANNEXURE-4

नियुक्ति, पत्र 2/A, Man Singh Road,
New Delhi, the 14.02.2000

To,
All DCOs,

Subject : Filling up the post sanctioned for Census of India-2001.

Sir,

I am directed to say that a number of posts have been sanctioned for Census of India-2001. These posts are required to be filled in as early as possible. As you are aware all the Group 'C' posts sanctioned for the above Census and the vacancies caused in Group 'C' and 'D' categories due to promotion in higher grades are to be filled by DCOs and the posts coming under Group 'A' and 'B' are to be filled by this office. You are requested to ensure that the posts available for Census of India - 2001 in Group 'C' and 'D' are filled in only either by promotion or on deputation basis in accordance with the provisions of Recruitment Rules. Direct recruitment from open market is not to be made in any case for the above posts. A suggested model 'order' for promotions against above mentioned posts is enclosed, which may be used with suitable need based modifications.

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

So far as Group 'B' posts are concerned you are requested to send by 25th February'2000 the A.C.R. dossiers for last 5 years, vigilance clearance and seniority list of the feeder grades of each category of Group 'B' posts to enable us to process the cases for their promotions. Where eligible persons are not available for promotion against Group 'B' posts, action to fill up the post on deputation may be initiated by the directorate. Action taken in this regard be communicated to ORGI.

All posts, to be filled in by deputation may be advertised in leading newspapers and Employment News, through DAVP, in addition to circular to Govt. of India and State Govt. offices etc.

Yours faithfully,

M. R. Singh

(M. R. Singh)

Under Secretary to the Govt. of India

Attested
W. S. M.
Advocate.

Attested
W. S. M.
Advocate.

-33-
OFFICE ORDER

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

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

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

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

DD/AD of Census Operations

Attested
W.Das
Advocate.

Attested

Advocate.

PART II

Particulars of the vacancy proposed to be utilised

1. Name of the post/service in which a vacancy is located ...
2. Pay scale of the post/specific grade of service ...
3. Classification of the post/grade of service ...
4. Whether recruitment rules have been framed for appointment to the post/service in question ...
5. Whether recruitment rules for the post/service have the approval of the UPSC; if so, particulars of the Commission's letter conveying their approval ...
6. Whether as per the recruitment rules the vacancy is to be filled by direct recruitment or transfer ...
7. If primary mode of recruitment is not direct recruitment or transfer, what are the circumstances in which the direct recruitment or transfer is being resorted to? ...
8. Duties attached to the post held by the Surplus Staff ...
9. Qualifications prescribed for the appointment to the post/service:

| | | |
|------------------------------------|-----------|-----------|
| | Essential | Desirable |
| (a) Educational qualifications ... | | |
| (b) Technical qualifications ... | | |
| (c) Experience, if any ... | | |
10. If the proposal for adjustment of surplus staff is being made in relaxation of the mode of recruitment prescribed in the recruitment rules
 - (a) indicate the particulars of the order of relaxation made by the competent authority ...
 - (b) whether the approval of UPSC to such relaxation of rules (if required) has been obtained; if so, particulars thereof ...
11. Whether the vacancy falls on a point reserved for Scheduled Castes or Scheduled Tribes ...

Attested
W. S. S.
Advocate.

12. Location of the vacancy ...
13. (a) Whether any employee is already appointed against this vacancy on *ad hoc* basis, if so, the particulars of the *ad hoc* appointee, indicating the date of his appointment, educational/technical qualifications...
 - (b) Whether he belongs to a Scheduled Caste or Scheduled Tribe, and whether his services will be terminated/adjusted elsewhere consequent on the absorption of surplus employee, as proposed ...
14. Particulars of the Confidential Rolls forwarded

Place:

Date:

Signature of the Controlling Officer or any other officer authorised to send the requisition

V

ANNEXURE - 5

Redeployment facilities to retrenched regular temporary employees

The temporary Groups 'C' and 'D' Central Government employees who are retrenched after having put in at least six months services are entitled to Priority III for the purposes of redeployment through the Employment Exchanges. It has been brought to the notice of the Department of Personnel and Administrative Reforms that the registration of names of the retrenched temporary Government employees under Priority III, has not been of much avail to them in securing alternative Government jobs. Keeping in view the fact that some of the temporary employees have been or are being retrenched from the various Government offices after serving for a long period, it has been felt that some further concession should be given to them in providing redeployment absorption facilities in order to mitigate their hardship.

2. The matter has been examined in consultation with the Ministry of Labour (Director-General of Employment and Training) and the following decisions have been taken:—

- (i) All retrenched temporary Central Government employees who were recruited through the Employment Exchange and have put in at least three years regular continuous service before retrenchment should be eligible for redeployment through a Special Cell.

NOTE.—For this purpose, the retrenched temporary employees who were recruited in relaxation of the Employment Exchange procedure under the existing instructions, e.g., appointments of dependants of deceased employees on compassionate grounds, will be deemed to have been appointed initially through the Employment Exchange.

- (ii) Until all such retrenched employees are so redeployed no direct recruitment will be resorted to by the non-participating attached and subordinate offices of the Ministries/Departments to Group 'C' and Group 'D' posts filled through the Employment Exchange. Suitable instructions may accordingly be issued by the Ministries/Departments to their attached and subordinate offices.
- (iii) Ministries/Departments should first explore the possibility of redeploying the employees retrenched by them in suitable Group 'C' and Group 'D' posts in subordinate and non-participating offices under them. For this purpose they should first obtain clearance in accordance with the existing instructions from the Department of Personnel and Administrative Reforms regarding the non-availability of suitable persons in the 'Surplus Cell', before action is taken by them to sponsor the retrenched employees for posts in the Subordinate and non-participating attached offices.
- (iv) For appointment to Group 'C' and Group 'D' posts the retrenched employees would be eligible for age concession by being allowed to deduct the length of continuous service rendered by them before retrenchment plus a relaxation in age up to the maximum of three years.
- (v) The names of employees retrenched from Group 'C' posts who cannot be redeployed in the manner indicated above should be referred to the Special Department of Personnel and Administrative Reforms. Similarly the names of the surplus employees retrenched from Group 'D' posts should be sent to the Cell already functioning under the DG, P & T. The Special Cell in the Department of Personnel and Administrative Reforms or the Cell under the DG, P & T, as the case may be, will thereafter take action for redeployment of these people in other subordinate and non-participating attached offices.

3. The retrenched temporary employees will not be eligible for any pay and allowances during their waiting period nor will they be entitled to the concession/benefits admissible to surplus persons taken over by the Central (Surplus Staff) Cell in the Department of Personnel and Administrative Reforms.

4. The appointment of retrenched temporary employees in Group 'C' and Group 'D' posts in subordinate, non-participating attached offices

will be considered as fresh appointment and their pay on such appointment will also be fixed under the normal rules.

[G.I., D.P. & A.R., O.M. No. 42914/1/75-Estt. (D), dated the 27th March, 1976 and 29th June, 1978.]

The question of extending this facility to similar retrenched temporary Central Government employees who have put in less than 3 years of regular continuous service was examined after consultation with the Staff Side. It has been decided that the existing scheme contained in DP & AR, OM, dated 27-3-1976 and 29-6-1978, would be extended to cover all temporary employees recruited regularly through the prescribed channels of recruitment such as Staff Selection Commission, Employment Exchange, etc., including those who have not completed 3 years of regular continuous service at the time of retrenchment. The modified scheme would have retrospective effect from 1st January, 1992.

All the Ministries/Departments are requested to bring the above scheme to the notice of all concerned including those in the attached and subordinate offices for guidance and necessary action.

[G.I., Dept. of Per. & Trg., O.M. No. 25017/7/92-Estt. (D), dated the 22nd January, 1993.]

Attested
Advocate.