

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 62/1/2002

R.A/C.P No.....

E.P/M.A No. 61/02

1. Orders Sheet..... Pg..... to.....
MP 61/02 order page 1 to 2 followed command order
2. Judgment/Order dtd. 19.9.2002 Pg.1..... to 17.10.2002
642, 62, 68, 69, 70
3. Judgment & Order dtd..... Received from H.C/Supreme Court 15/10/02
4. O.A..... 62/02 Pg.1..... to 85.....
5. E.P/M.P..... 61/02 Pg.1..... to 10.....
6. R.A/C.P..... Pg..... to.....
7. W.S..... Pg.1..... to 25.....
8. Rejoinder..... Pg..... to.....
9. Reply..... Pg..... to.....
10. Any other Papers..... Pg..... to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendment Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

Gahita
22/11/02

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 62/2002
Misc. Petition No. /
Contempt Petition No. /
Review Application No. /

Applicant(s) Smt. Usham Karmila Devi 2 2002

Respondent(s) Elot 2 2002

Advocate for Applicant(s) Mr. B.K. Sharma, S. Sarma,
C.L.K. Naik & Miss U. Das.

Advocate for Respondent(s) CASE - K.N. Chaudhury, J. Chaudhury
B.C. Das.

Notes of the Registry

Date

ORDER OF THE TRIBUNAL

26.2.02

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 two weeks.
In the meantime, Respondents are directed
not to out the applicants from services till
the returnable date.

List on 15.3.2002 for order.

I C Usha
Member

Vice-Chairman

mb

15.3.02

List on 22.4.2002 to enable the Respon-
dents to file written statement.

In the meantime, interim order dated
26.2.2002 shall continue.

I C Usha

Member

Vice-Chairman

mb

14.3.02

① Service report are
still awaited.

Ordered 15/8/02
Communicated to the
Parties Commr.

20/8/02

12.4.02 List on 6/5/2002 alongwith M.P.
No.61/2002 for hearing.

4.4.2002

lets submitted
by the Respondents.

20/8/02

I C Usha
Member

Vice-Chairman

82.4.02

Heard Mr. J.L.Sarkar, learned
counsel for the applicant, Mr. I.M. Chou-
dhury, learned counsel for the Respondents
and also Mr. A.Deb Roy, learned Sr. C.G.S.
C. for the Respondents.

Written statement has been filed.

The case is ready for hearing. In terms of
the order dated 12.4.2002 list the matter
for hearing on 6.5.2002. The applicant may
file rejoinder within seven days from today.

20/8/02

Vice-Chairman

No rejoinder has
been filed.

20/8/02

mb

6.5.02

Adjourned on the prayer of learned
counsel for the parties. List the matter
for hearing on 4/6/2002.

I C Usha
Member

Vice-Chairman

mb

4.6.02

On the prayer of learned counsel for
the applicant case is adjourned to
17.7.02 for hearing.

I C Usha
Member

Vice-Chairman

17.7.02

Prayer has been made on behalf of Mr.
B.K. Sharma, learned Sr. counsel for the
applicant for adjournment of the case. Mr.
K.N. Choudhury, learned Sr. counsel for the
respondents did not object for such accommo-
dation. List on 5.8.2002 for hearing.

I C Usha
Member

Vice-Chairman

10/55
1
CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH.

O.A./XXXXX No. 62. of 2002, O.A.No.68 of 2002,
O.A.No.2/2002, O.A.No.69 of 2002, O.A.No.70 of 2002 & O.A.No.151 of 2002

Shri B.C. Hazarika (O.A.No.2/2002) DATE OF DECISION 19.8.2002

Smt Usham Kamila Devi & Ors (O.A.No.62/02)

Smt Bimalananda Das & Ors. (O.A.No.68/02)

Shri Tara Charan Kalita (O.A.No.69/02)

Smt Ratna Bhattacharjee & Anr. (O.A.No.70/02)

Shri Indrajit Das (O.A.No.151/02)

APPLICANT(S)

Mr B.K. Sharma, Mr S. Sarma, Mr U.K. Nair,

Ms U. Das, Mr M. Chanda, Mrs N.D. Goswami ADVOCATE FOR THE APPLICANT(S)

Mr G.N. Chakraborty, Mr M. Pathak and Mr D. Baruah.

- VERSUS -

The Union of India and others

RESPONDENT(S)

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

Mr K.N. Choudhury, Mr I. Chowdhury and

Mr B.C. Das.

ADVOCATE FOR THE
RESPONDENTS.

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

THE HON'BLE MR K.K. SHARMA, 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 ?
5. Judgment delivered by Hon'ble Vice-Chairman

L

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.62 of 2002

Original Application No.68 of 2002

Original Application No.2 of 2002

Original Application No.69 of 2002

Original Application No.70 of 2002

And

Original Application No.151 of 2002

Date of decision: This the 19th day of August 2002

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

The Hon'ble Mr K.K. Sharma, Administrative Member

O.A.No.62/2002

1. Smt Usham Kamila Devi
2. Md. Abdul Kalam Shah
3. Sri Thokchom Basanta Singh

All are working as Computer in the
Office of the Directorate of Census Operations,
Manipur, Imphal.Applicants

By Advocates Mr B.K. Sharma, Mr S. Sarma,
Mr U.K. Nair and Ms U. Das.

- versus -

1. The Union of India, represented by the
Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.
2. The Registrar General of India,
New Delhi.
3. The Director of Census Operations,
Manipur, Imphal.
4. The Assistant Director of Census Operations,
Manipur, Imphal.Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mr K.N. Choudhury, Mr I Chowdhury and Mr B.C. Das.

O.A.No.68/2002

1. Shri Bimalananda Das,
S/o Shri Amalananda Das,
Resident of Village Mirza,
P.S.- Palashbari, Kamrup, Assam.
2. Shri Nagen Rabha,
S/o Shri Bipin Rabha,
Village- Shar Khari, P.O.- Loharaghata,
P.S. Palashbari, Kamrup, Assam.
3. Shri Arjun Baruah,
S/o Shri Arjun Baruah,
P.O. & Village- Arikuchi,
Nalbari, Assam.

....Applicants

By Advocates Mr M. Chanda, Mrs N.D. Goswami
and Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General of Census Operations, New Delhi.
3. Shri J.K. Bantia, Registrar General of Census Operations, New Delhi.
4. The Director Census Operations, Assam, G.S. Road, Guwahati.
5. The Deputy Director of Census Operations, Assam, G.S. Road, Guwahati.
6. Shri N.C. Sen, Deputy Director of Census Operations, Assam, G.S. Road, Guwahati. Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C., Mr K.N. Choudhury, Mr I. Chowdhury and Mr B.C. Das.

O.A.No.2/2002

Shri Bikul Chandra Hazarika,
S/o Late Bhanashyam Hazarika,
P.S. Kampur, District- Nagaon, Assam. Applicant
By Advocates Mr M. Pathak and Mr D. Barua.

- versus -

1. The Union of India, through the Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
2. The Registrar of Census Operations, New Delhi.
3. The Director of Census Operations, Assam, G.S. Road, Guwahati.
4. The State of Assam, represented through the Secretary to the Government of Assam, Personnel (B), Dispur, Guwahati. Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C., Mr K.N. Choudhury, Mr I. Chowdhury and Mr B.C. Das.

O.A.No.69/2002

Shri Tara Charan Kalita,
S/o Shri Samudra Kalita,
Resident of Village No.1 Jiakur,
P.O.-Kukurmara, District- Kamrup, Assam.
By Advocates Mr M. Chanda, Mrs N.D. Goswami and Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the Secretary to the Government of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General of Census Operations, New Delhi.
3. Shri J.K. Bantia, Registrar General of Census Operations, New Delhi.
4. The Director of Census Operations, Assam, G.S. Road, Guwahati.
5. The Deputy Director of Census Operations, Assam, G.S. Road, Guwahati.
6. Shri N.C. Sen, Deputy Director of Census Operations, Assam, G.S. Road, Guwahati. Respondents

By Advocates Mr A. Deb Roy, Sr. C.G.S.C., Mr K.N. Choudhury, Mr I. Chowdhury and Mr B.C. Das.

O.A.No.70/2002

1. Smt Ratna Bhattacharjee
2. Shri Karuna Ram Das

Working as Computer/Assistant Compiler respectively in the Office of the Director of Census Operations, Assam, Guwahati (since terminated).Applicants
By Advocates Mr M. Pathak and Mr D. Barua.

- versus -

1. The Union of India,
Through the Secretary to the
Government of India,
Ministry of Home Affairs,
New Delhi.
2. The Registrar General of India,
New Delhi.
3. The Director of Census Operations,
Assam,
G.S. Road, Guwahati.
4. The Deputy Director of Census Operations,
Assam,
G.S. Road, Guwahati.
5. The Assistant Director of Census Operations,
Assam, Guwahati.Respondents
By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mr K.N. Choudhury, Mr I. Chowdhury and Mr B.C. Das.

O.A.No.151/2002

Shri Indrajit Das,
S/o Late Jitendra Lal Das,
C/o Miss Chandana Das,
Bishnupur, Guwahati.

....Applicant

By Advocates Mr M. Chanda, Mrs N.D. Goswami
and Mr G.N. Chakraborty.

- versus -

1. The Union of India, through the
Secretary to the Government of India,
Ministry of Home Affairs,
New Delhi.
2. The Registrar General of Census Operations,
New Delhi.
3. The Director of Census Operations,
Assam,
G.S. Road, Guwahati.
4. The Deputy Director of Census Operations,
Assam, G.S. Road, Guwahati.
5. Shri N.C. Sen,
Deputy Director of Census Operations,
Assam, G.S. Road, Guwahati.
6. The Assistant Director of Census Operations,
Assam, Office of the Director of Census Operations,
Assam, G.S. Road, Guwahati.Respondents
By Advocates Mr A. Deb Roy, Sr. C.G.S.C.,
Mr K.N. Choudhury, Mr I. Chowdhury and Mr B.C. Das.

.....

O R D E R

CHOWDHURY. J. (V.C.)

All these applications were taken up together for consideration, since it involves commonality both in facts and law as well.

2. The basic issue pertains to absorption of retrenched Census employees of 1991. All the applicants were engaged during the Census Operations and they were retrenched when the Census Operation was over.

3. The three applicants in O.A.No.62 of 2002 are working as Computer in the Office of the Director of Census Operations, Manipur. The three applicants knocked the door of this Tribunal for their absorption under the respondents on commencement of 2001 Census. They preferred three separate applications before this Tribunal which were registered and numbered as O.A.No.89 of 2000, O.A. No.363 of 1999 and O.A.No.51 of 2000. It was pleaded that those O.A.s were disposed of by this Tribunal with the direction on the respondents for appointment of the applicants against available vacancies. The respondents submitted Review Applications and sought for review of the Judgment and Order of the Tribunal. By order dated 11.1.2001 all the Review Applications were dismissed. The respondents thereafter preferred Writ Petitions before the High Court assailing the order of the Tribunal. By a common Judgment and Order dated 7.6.2001 the High Court dismissed all the seven Writ Petitions. The full text of the operative part of the Judgment and Order dated

7.6.2001.....

7.6.2001 is reproduced below:

"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 retrenchedes according to their length of service. A person with longer length of service in a particular category would be offered the job first and then the other retrenchedes in that order. After exhausting the retrenchedes, 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 retrenchedes irrespective of whether or not they were applicants before the CAT."

4. By order dated 30.7.2001 the three applicants in O.A.No.62/2002 were re-engaged as Compiler, they being the seniormost retrenched employees of 1991 Census, subject to the following 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 20.2.2002 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."

Being aggrieved by the action of the respondents for engaging them for limited period instead of regularising them, the applicants moved this Tribunal assailing the legitimacy of the action of the respondents.

5. In O.A.No.68 of 2002 the three applicants were engaged by the respondents in connection with the 1991 Census work. They continued to work in the department and their services were terminated in December 1993. They assailed the order of termination before the Tribunal in

 O.A.No.269 of 1993. The Tribunal by Judgment and Order dated

10

5.6.1998 disposed of said O.A. directing the respondents to act as per law enunciated by the Apex Court in Union of India Vs. Dinesh Chandra Saxena, reported in 1995 (29) ATC 585. The applicants made representation before the authority. Failing to get appropriate remedy all the applicants including applicant Nos.1 and 2 again moved the Tribunal by filing O.A.No.161 of 1999. By Judgment and Order dated 16.2.2000 the Tribunal directed the respondents to absorb the applicants in vacancies that would occur for census operations of 2001. Similarly, the applicant No.3 also preferred O.A.No.76 of 2000 before the Tribunal, which was also disposed of on 25.2.2000 in similar fashion. The respondents, however, took steps for appointing persons by transfer on deputation to fill up the posts available for census of India 2001. At that stage, the three applicants alongwith one Harish Chandra Rabha moved the Tribunal assailing the methodology of recruitment for filling up vacancies of the 2001 Census overlooking their case for absorption. The matter was finally disposed of by Judgment and Order dated 6.2.2002 in O.A.No.142 of 2000. The Tribunal held that the case was squarely covered by the decision of the Tribunal finally merged in the decision rendered by the Gauhati High Court in WP(C) Nos.2531/2001, 2532/2001, 2533/2001, 2534/2001, 2535/2001, 2536/2001 and 2537/2001 on 7.6.2001. By the impugned order dated 28.2.2002 the applicants' services were discontinued with effect from the afternoon of 28.2.2002. Hence the three applicants moved the O.A.No.68/2002 assailing the legitimacy of the order dated 28.2.2002.

[Handwritten signature]

6. The other four applications namely, O.A.No.2/2002, O.A.No.69/2002, O.A.No.70/2002 and O.A.No.151/2002 are also factually similar. Therefore, further discussions on these cases are not made.

7. The respondents contested the case and submitted their written statements. In the written statements the respondents pleaded that as per the order of the Tribunal, the applicants were ordered to be appointed against Census related posts and they were appointed against Census posts only and their services were terminated as soon as the Census Operation was over.

8. We have heard the learned counsel for the parties at length. After the decision rendered by the High Court in WP(C) Nos.2531, 2532, 2533, 2534, 2535, 2536 and 2537 of 2001 vide Judgment and Order dated 7.6.2001, the matter stood concluded. All the decisions rendered by the Central Administrative Tribunal got merged in the decision of the High Court. The High Court upheld the decision of the Central Administrative Tribunal and concurred with the reasoning adopted by the Tribunal. The matter did not end there. The High Court further directed the respondents to offer vacancies to the retrenchees according to length of service. The person with longer length of service in a particular category was to be offered job first than other retrenchees. After exhausting the retrenchees, if more vacancies came to surface, the authorities were directed to fill up the posts by other methodology provided by the Recruitment Rules. The High Court clarified that order and stated that the Judgment and Order of the High Court dated 7.6.2001 would be applicable

to.....

to all the retrenchedes irrespective of whether or not they were applicants before the Tribunal. Retrenchedes mean persons who were retrenched in 1991 Census. The Tribunal, more particularly the High Court also referred to the decision rendered by the Supreme Court in Government of Tamil Nadu and another Vs. G. Mohamed Ammenudeen and others, reported in (1997) 7 SCC 499. As per the letter and spirit of this decision, the retrenchedes were to be absorbed in terms of the direction issued by the High Court in conformity with the principles laid down in Md. Ammenudeen (Supra). In Dinesh Chandra Saxena (Supra), on the fact situation the Supreme Court was not inclined to issue a direction for framing any scheme for regularisation of those persons, more so since they were engaged on contract basis for a limited period on a fixed pay. Nevertheless, the Supreme Court directed the Directorate of Census Operations, Uttar Pradesh to consider the retrenched employees for direct recruitment in regular posts in the Directorate of Census Operations, Uttar Pradesh in the manner indicated in the judgment. Therafter the Supreme Court had the occasion to deal with the matter in G. Mohamed Ammenudeen and others (Supra) in Civil Appeal No.810 of 1998. The Supreme Court passed an interim order on 11.3.1999 directing respondent authority to frame a scheme to absorb the respondents (in C.A.810/1998) and other employees who were retrenched and who were similarly placed. The Supreme Court in the aforesaid order noted the peculiarity of service of the Census employees who were engaged for a limited duration and thereafter they were retrenched on completion of the project, thereby losing both the employment and their position in the queue in the employment exchange. The respondent authority

was.....

was accordingly directed to work out a scheme for their absorption. The record of the proceedings of the Supreme Court dated 11.3.1999 in C.A.No.810/1998 was reported in 2001 (9) SCC 750. Sequel to the order of the Supreme Court, the State of Tamil Nadu prepared a scheme and submitted before the Supreme Court. The Government O.M. No.144 dated 11.8.1999 was brought to the notice of the Supreme Court, which reads as follows:

i) Retrenched employees of the Census Organisation in Tamil Nadu with not less than six months' service were placed in priority (iii) list under Group III for employment assistance through employment exchanges.

ii) A period of three years was ordered to be excluded in computing their age for appointment through the Tamil Nadu Public Service Commission and the employment exchanges, provided they had rendered temporary service of at least six months in the Census Organisation of this State.

iii) The rule of reservation was to be followed in making the appointment of retrenched census employees."

The matter was finally disposed of by the Supreme Court by Judgment and Order dated 28.9.1999 ((1999) 7 SCC 499). The Supreme Court, on consideration of all the materials on record found that clauses (i) and (ii) of aforementioned O.M. would cause hardship and would not be workable and accordingly directed the State Government to delete these two conditions and ordered that all that may be insisted upon was that retrenched employees of Census Department could be placed in Group IV and the condition relating to the exclusion of three years from their age was to be deleted. The matter again came up before the Supreme Court in Contempt Petition (C) No.103 of 2000 etc. (in CA No.810/1998) in N. Palani Vs. Thiru A.P. Muthuswami and another, reported in (2001) 9 SCC 748. The Supreme Court as per order of the Supreme Court issued

Notification.....

Notification to the following effect vide GOMs No.144,
P&AR dated 11.8.1999:

"(a) All the retrenched employees of Census Organisation shall be placed in priority (iii) list under Group IV for employment assistance through employment exchanges for sponsoring against the vacancies arising in State Government, local bodies and public undertakings.

(b) The retrenched employees of Census Organization shall be shall be exempted from the age-limit prescribed in the relevant Service Rules governing the posts in which they are to be appointed. This concession shall apply only to the retrenched employees of 1991 Census."

The Supreme Court found that clause (a) was not justified, by asking that ex-employees were to be sponsored again by employment exchanges and that condition would not be in conformity with the order of the Supreme Court. The Supreme Court accordingly directed that the proper course would be to consider their cases as retrenched employees in a separate category and work out a scheme to fit them against appropriate posts. It may be mentioned that all the aforesaid cases relate to appointment made by the State Governments for the purpose of assisting and conducting the census and in that context the Supreme Court directed the State Government.

9. Admittedly, the applicants in these applications were engaged by the respondents alone. The directions were issued for absorption of the retrenched employees. We find no justification for giving any narrow, constricted, rabid and abtruse restrictions to the judgment of the court. The respondents sought to mean as if the directions were confined for vacancies of Census Operation of 2001. Whatever misgivings could have been there was cleared by the decision of the High Court in WP(C) Nos.2531, 2532, 2533, 2534, 2535, 2536 and 2537 of 2001. The High Court referred to the decision of G. Mohamed Amenudeen and others (Supra) and directed to offer vacancies to retrenchees.....

retrenchees according to their length of service and only after exhausting retrenchees if there were still vacancies available those could be filled as per the Recruitment Rules. Appointment by Recruitment Rules itself means regular appointment and not appointment by way of stop-gap arrangement. The contention of the respondents that the claim of the applicants was to be confined to the Census posts alone and therefore, the judgment was not meant to be used for regular absorption, in our view is an ultra-technical attitude. In this connection it would be appropriate to recall the observation of Bose, J. in State of U.P. Vs. Mohd. Nooh, reported in 1958 SCR 595 (613 and 614), where he observed :

".....Justice should, in my opinion be administered in our courts in a common sense liberal way and be broad-based on human values rather than on narrow and restricted considerations hedged round with hair-splitting technicalities....."

10. The High Court direction was not confined only to the applicant, but to all retrenched employees irrespective of whether they were applicants before the Tribunal or not. The order was made for absorption of the Census retrenched employees in the light of the judgment rendered by the Apex Court in Mohamed Ammenudeen (Supra).

11. As stated earlier the decision of the Tribunal was subject to judicial review under Article 226. The respondents went for such judicial review before the High Court and judgment was rendered by the High Court at the instance of the respondents. The Judgment and Order rendered by the Tribunal was merged with the decision of the High Court alone and is subsisting and operative and therefore, capable of enforcement. The Constitution Bench in Collector of Customs, Calcutta Vs. East India Commercial Co. Ltd, reported in (1963) 2 SCR 563 (568)

made the following observation:

" The question therefore turns on whether the order of the original authority becomes merged in the order of the appellate authority even where the appellate authority merely dismisses the appeal without any modification of the order of the original authority. It is obvious that when an appeal is made, the appellate authority can do one of the three things, namely, (i) it may reverse the order under appeal, (ii) it may modify that order, and (iii) it may merely dismiss the appeal and thus confirm the order without any modification. It is not disputed that in the first two cases where the order of the original authority is either reversed or modified it is the order of the appellate authority which is the operative order and if the High Court has no jurisdiction to issue a writ to the appellate authority it cannot issue a writ to the original authority. The question therefore is whether there is any difference between these two cases and the third case where the appellate authority dismisses the appeal and thus confirms the order of the original authority. It seems to us that on principle it is difficult to draw a distinction between the first two kinds of orders passed by the appellate authority and the third kind of order passed by it. In all these three cases after the appellate authority has disposed of the appeal, the operative order is the order of the appellate authority whether it has reversed the original order or modified it or confirmed it. In law, the appellate order as an appellate order of reversal or modification."

The Supreme Court interpreted the aforesaid case in the light of Sections 96, 100 and 115 of the Civil Procedure Code, 1908. The Doctrine of Merger is applicable in the case of a decision rendered by a Tribunal resolved by the decision of the superior court. Powers of adjudication, ordinarily vested in courts are now being exercised under the law by Tribunals and other constituted authority. In S.S. Rathore Vs. State of M.P., reported in (1989) 4 SCC 582, it was, in fact held that there was no justification for bringing any distinction between Courts and Tribunals with regard to the principle of merger.

12. In view of the clear pronouncement by the Tribunal and subsequently upheld by the High Court we asked Mr K.N. Choudhury, learned counsel for the respondents as to whether the matter could be resolved by the authority. Mr K.N. Choudhury in course of hearing placed before us a communication sent by Deputy Registrar General of India, vide Memo dated 15.7.2002. The full text of the communication is reproduced below:

"I am directed to refer to your letter No.DCO(E)175/2000/5782 dated 5.7.2002 and to say that the following concessions are already available to those employees who were temporarily engaged purely on ad-hoc and temporary basis against the short term posts created in connection with the Census and whose services were terminated after abolishing the temporary posts.

1. As per the judgement of the Hon'ble Supreme Court of India, dated 24.02.1995 in Civil Appeal No.73169 of 1991 Union of India & Ors. Versus Dinesh Kumar Saxena & Ors. the retrenched Census employees are entitled to be considered along with general candidates for appointments in any regular vacancies if such employees are otherwise qualified and eligible for the posts. For this purpose the length of temporary service of such employees in the Census department shall be considered for relaxing the age for such appointment.
2. In terms of the order dated 7th June, 2001 passed by the Hon'ble High Court, Guwahati in Writ petition No.2531/2001 to 2537/2001, the retrenched Census employees are entitled to be temporarily re-engaged against the vacant temporary posts created in connection with Census, 2001 in the order of their seniority i.e. a person with longer length of service in a particular category would be offered the job first and then the other retrenchees in that order.

It is also submitted that the applicants to the aforementioned OAs can not be regularized against the regular vacancies in view of the following as per the advice from Deptt. of Personnel & Training:-

1. Recruitment to the regular posts is made in accordance with the Recruitment Rules which are framed under Article 309 of the Constitution of India. The recruitment rules for regular appointment can not be dispensed.....

dispensed with for regularising the persons engaged for short-term work. Any relaxation would have far-reaching adverse implications in several Ministries/Departments under the Government and in other parts of the country.

2. Appointment to the regular posts is made through the prescribed channels viz. Staff Selection Commission. Further, presently recruitment to the regular vacant posts can not be done without obtaining clearance from the Screening Committee of the concerned Ministry. Besides this, the other formalities in the direct recruitment procedure are also to be complied with viz. following the post-based roster, etc.
3. Government policy is to right-size manpower. It would not be proper to provide regular jobs without work.
4. Regularization of the short-term employees bypassing the recruitment rules and Staff Selection Commission, etc. would be violation of Art. 16 of the Constitution.

In view of the above circumstances, it will not be possible to appoint directly the applicants of the above mentioned O.A.s in regular vacancies. You may accordingly apprise the position to the Hon'ble Tribunal through the concerned Govt. counsel."

13. It seems the authority decided to re-write the judgment of the Tribunal merged with the decision of the High Court. In our view the respondents acted in a most illegal fashion in attempting to sit over the judgment of the Tribunal that merged with the judgment of the High Court. The respondents acted contumaciously in its bid to circumvent the judicial decisions. Seemingly, the respondents acted to stonewall a judicial decision obdurately contrary to the scheme of the Constitution and the spirit of the Rule of Law. The administration is not to sit in an appeal against a judicial order nor should it attempt to amend or revise a judicial decision. The functional utility of the Constitutional edifice is needed to be ensured and not to be downgraded. The High court order in clear terms observed that only after exhausting

the.....

the retrenchees, if there are still more vacancies available, those may be filled by any other method provided under the Rules. Rules mean Recruitment Rules. A judicial decision given by a competent court was not meant to be flouted in this fashion.

14. A Government and for that matter the public officials under the Indian Constitution are not above Law. A Government is not the Government of men, but of law. The maxim "The King can do no wrong" is anathema to the Constitutional Scheme. There is equality before the Law and equal protection of laws. The Government and the public authorities are subject to jurisdiction of Courts and Tribunals. They are not immune from the ordinary legal process.

15. The Indian Parliament enacted the Administrative Tribunals Act, 1985 to provide for the adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State. The decision of the Tribunal is final and binding subject to judicial review by the higher constitutional courts. To permit the Executive to review or to reverse such decision would amount to interference with the exercise of judicial function. It would amount to subjecting the decision of the Tribunal and Court to the scrutiny of the Executive which does not countenance with the scheme of independence of the judiciary and rule of law. The Executive is to obey the judicial decision. The Judgments and Orders of the Tribunal in these cases were upheld by the High Court and the same attained finality.

16. When the High Court had passed an order which attained finality, question of obtaining clearance from the Screening Committee of the concerned Ministry or dispensation and/or approbation from the concerned Ministry do not arise.

17. The plea raised by the respondents to avert the decision of the court is incompatible and antithetic to rule of law. The plea of administrative expediency will not provide lee way on the authority to bye pass the decision of the competent court. Needless to state that those who rouse the hornet's nest should not complain of being stung as was observed by O. Chinnappa Reddy J. in B. Prabhakar Rao and Ors. Vs. State of Andhra Pradesh and Others 1985 (Supp) SCC 432. In this context it would be apt to recall the statement of Lord Denning M.R. in Bradbury Vs. London Borough of Enfield (1967) 3 All England Report 434:

"It has been suggested by the chief education officer that, if an injunction is granted, chaos will supervene. All the arrangements have been made for the next term, the teachers appointed to the new comprehensive shcools, the pupils allotted their places and so forth. It would be next to impossible, he says, to reverse all the arrangements without complete chaos and damage to teachers, pupils and public. I must say this : if a local authority does not fulfil the requirements of the law, this Court will see that it does fulfil them. It will not listen readily to suggestions of "chaos". The department of education and the council are subject to the rule of law and must comply with it, just like be obeyed; but I do not think that chaos will result. The evidence convinces me that the "chaos" is much overstated.... I see no reason why the position should not be restored, so that the eight schools retain their previous character until the statutory requirements are fulfilled. I can well see that there may be a considerable upset for a number of people, but think it far more important to uphold the rule of law....."

18. If the authority acts incongruously in disregarding the direction of the court law is not debilitated and the court will not be unnerved in compelling the authority to abide by the law upholding the rule of law is no less important.

19. For all the reasons stated above we set aside the orders dated 28.2.2002 passed by the respondents in the above O.A.s and direct the concerned authority to take appropriate measure to absorb the applicants including the other retrenched employees as per the direction of the High Court expeditiously and preferably within four months from the date of receipt of the order.

20. The applications are accordingly allowed. The respondents are ordered to pay cost of Rs.1000/- (Rupees one thousand only) each to the applicants.

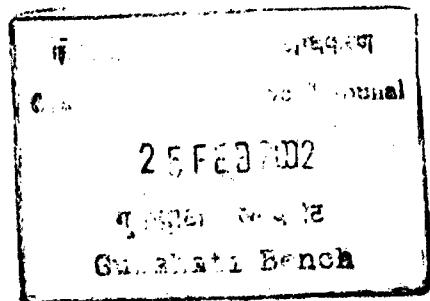
K. K. Sharma

(K. K. SHARMA)
ADMINISTRATIVE MEMBER

D. N. Chowdhury

(D. N. CHOWDHURY)
VICE-CHAIRMAN

nkm



THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
GUWAHATI

D.A. No. of 2002

Smt. Usham Kamila Devi & 2 Ors.

... Applicants

- Versus -

Union of India & Ors.

... Respondents

I N D E X

SL. No.	Particulars of the documents	Page No.
1.	Writ Application ...	1 to 17
2.	Verification ...	18
3.	Annexure- A ...	19
4.	Annexure- A/1 ...	20 - 25
5.	Annexure- A/2 ...	26 - 27
6.	Annexure- A/3 ...	28 - 51
7.	Annexure- A/4 ...	52
8.	Annexure- A/5 ...	53, 54
9.	Annexure- A/6 ...	55, 56

Filed by :

Advocate

Usha Das.

27.7.2002

27.7.2002

23
Filed by
the applicant through
Alsha Das
Advocate
25/2/2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No. 67 of 2002

BETWEEN

1. Smt. Usham Kamila Devi,
2. Md. Abdul Kalam Shah
3. Sri Thokchom Basanta Singh,

All working as computer in the office of the Directorate of Census Operations, Manipur, Imphal.

... Applicants

AND

1. The Union of India, represented by the Secretary to the Government 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

DETAILS OF APPLICATION

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

The OA is directed against an order issued under No. A/12021/5/98-Apptt (Pt)/135 dated 30.7.2001 issued under the signature of the Respondent No. 4 purportedly in compliance with the directions of the Hon'ble Tribunal and the Hon'ble Gauhati High Court and thereby appointing/re-engaging the Applicants till 28.2.2002

or till the abolition of the posts whichever is earlier stipulating the condition therein that the services of the Applicants are likely to be discontinued on or before 28.2.2002.

2. JURISDICTION OF THE TRIBUNAL :

The Applicants declare that the subject matter of the application is within the jurisdiction of this Hon'ble Tribunal.

3. LIMITATION :

The Applicants further declare that the application is filed within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE :

4.1 That the Applicants are citizens of India and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India.

4.2 That the Applicants are aggrieved by a single order of their re-engagement in service as computer under the Respondents restricting the same only to 28.2.2002. They have got a common grievance against the said order and the relief sought for by them in this application is also the same. As such they have file this application jointly and they may be permitted to do so in terms of Rule 4, 5 (A) of the Central

lben

Administrative Tribunal (Procedure) Rule, 1987.

4.3 That the Applicants are all eligible for Group-C post. Pursuant to sponsoring of their names for appointment against Group-C posts under the Respondents and pursuant to their suitability for the post of computers assessed by the selection committee (DPC) held for the purpose, they were appointed as computers during the Census Operation of 1991. After their such appointments, they discharged their 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 some other persons were also appointed to various Group-C posts like that the Applicants under the Respondents No. 3 and 4 and their services were also terminated with effect from 31.12.93.

4.4 That two out of the aforesaid terminated employees had approached this Hon'ble Tribunal by filing OA No. 24/94 and OA No. 60/94 making a grievance against the said order of termination. The Applicants in the said two cases were Shri A.S. Stephen and Smt. Ng. Makan. This Hon'ble Tribunal was pleased to pass interim orders protecting their services and on the strength of such interim orders the said two Applicants continued in their services. Eventually OA No. 24/94 was withdrawn by the Applicant therein on getting employment elsewhere. However, OA No. 60/94 was disposed of by a speaking order directing the

(Signature)

Respondents to consider the case of the Applicant and pursuant to such direction her services has been regularised by an order dated 23.12.98.

The Applicants crave leave of this Hon'ble Tribunal to produce the copy of the said judgment and the order of regularisation at the time of hearing of this case.

4.5 That after the aforesaid decision of this Hon'ble Tribunal, some of the retrenched employees under the Respondents No. 3 and 4 had also approached this Hon'ble Tribunal and pursuant to the order passed for consideration of their case as per the existing circulars and guidelines and so also following the decisions of the Apex Court, they have been appointed in Group-C posts on regular basis.

The Applicants crave leave of the Hon'ble Tribunal to refer and rely upon those cases at the time of hearing of this case. It will be pertinent to mention here that similar pleas were raised by the same very Respondents as in the present case disputing the claim of the Applicants therein.

4.6 That the Applicants who are admittedly retrenched Census employees were/are entitled to get preferential consideration in the matter of their reengagement/reemployment as per the guidelines issued by the Government of India from time to time. However, the case of the Applicants were never considered by the

DR

Respondents for their absorption against the vacancies both long term and short term and all their requests for such absorption against the available vacancies over the years fell into the deaf ears of the Respondents.

4.7 That with the commencement of 2000/2001 census, apart from the long term vacancies in Group-C cadre, some short term vacancies were also sanctioned. The Applicants being the retrenched census employees were naturally expecting their reengagement against those vacancies. However, when nothing was done, rather proposal was sent for filling up the vacancies both on deputation as well as by way of adhoc promotion, the Applicants having no other alternative had to approach this Hon'ble Tribunal by filing OA No. 89/2000, OA No. 363/99 and OA No. 51/2000. The said OAs were disposed of by various orders directing appointment of the Applicants against available vacancies within a period of two months. However, the Respondents instead of complying with the orders so passed, preferred review applications making a prayer to review the said orders. Although during the pendency of the review applications, there was no stay order in respect of the orders passed in those OAs, the Respondents did not implement the orders of this Hon'ble Tribunal. Eventually all the review applications were dismissed by the Hon'ble Tribunal by a common judgment and order dated 11.1.2001. As against this the Respondents filed various writ petitions in respect of each of the

Applicants and others similarly situated and those writ petitions were dismissed by a common judgment and order dated 7.6.2001. It will be pertinent to mention here that on an earlier occasion, the Applicant No. 1 had filed OA No. 182/99 and the same was disposed of with the direction to consider the case of the Applicant. In terms of the said order the said Applicant was appointed as Asstt. Compiler with effect from 3.1.2000 by an order No. C.18013/1/99-IX(UKD) dated 3.1.2000. However, even before completion of the tenure of appointment, her service was terminated by an order dated 25.2.2000, which was also challenged in OA No. 89/2000.

A copy of the order dated 25.2.2000 is annexed as Annexure-A.

Since the said common judgment and order dated 7.6.2001 contains both the orders passed by this Hon'ble Tribunal in the OAs and the reviews applications, copies of the same are not annexed to avoid repetition. However, a copy of the said common judgment and order dated 7.6.2001 is annexed as Annexure-A/1. As regards the first tenure of appointment of the Applicants, same is not indisputable and the Applicants crave leave of the Hon'ble Tribunal to produce the copies of their appointment letters and other related documents, if and when required.

4.8. That the Respondent No. 4 has issued an order dated 30.7.2001 much after the aforesaid order of this

lthcm

Hon'ble Courts by which the Applicants have been appointed as computors for the limited period upto 28.2.2002 with the stipulation that their services shall stand terminated on the discontinuation/abolition of the posts created for Census of India, 2001. The said order has been issued purportedly in compliance of the orders of this Hon'ble Tribunal and and the Hon'ble Gauhati High Court referred to above.

A copy of the said order dated 30.7.2001 is annexed as Annexure-A/2.

4.9 That the Applicants states that they being unemployed and being at the receiving end after the termination of their services with effect from 31.12.93 and who were not in a position to approach this Hon'ble Tribunal to claim similar benefits as that of the Applicants in OA No. 24/94 and 60/94 referred to above, had no option than to accept the said offer and presently they are in employment in the capacity of computor. However, inspite of the fact that the said vacancies have been extended and that there are other long term vacancies to accommodate the Applicants towards continuance of their services, a move is on to terminate the services of the Applicants taking the grounds as stipulated in the order dated 30.7.2001 (Annexure-2). All the representations of the Applicants urging for continuance of their services against the posts either temporary or permanent which are now available have fallen into the deaf ears of the

Sister

Respondents and now the Applicants are threatened with losing their jobs with effect from 28.2.2002 and hence this application seeking urgent and immediate relief.

4.10 That the Applicants state that in the aforesaid writ petitions filed by the Respondents before the Hon'ble Gauhati High Court the retrenched census employees who were co-applicant alongwith these Applicants had filed an Affidavit-in-opposition pointing out the vacancy positions. In the said affidavit the actual position regarding vacancy was highlighted. It was stated that adequate number of vacancies are there to accommodate all the retrenched census employees and that it was the policy of the Government to accommodate all such retrenched census employees. It was also pointed out as to how such census employees have been accommodating in other States. It was only after filing such an affidavit on behalf of all the Applicants, the aforesaid Annexure-1 judgement was passed.

Instead of repeating the contentions raised in the said affidavit, a copy of the same alongwith the documents annexed thereto is annexed as Annexure-A/3.

4.11 That the Applicants state that although the Respondents have taken the plea that the Applicants could be adjusted only against short term vacancies, but in fact even the short term vacancies are still continuing and will be continued beyond 28.2.2002. Some

Ans

of the posts were filled up by bringing persons on deputation and some posts have been filled up by way of promotion on adhoc basis. Apart from this, there are other permanent vacancies against which not only the present Applicants but all other retrenched census employees could very well be accommodated. The Respondents herein have given a wrong interpretation of the aforesaid judgment of this Hon'ble Tribunal affirmed by the Hon'ble Gauhati High Court. The said Respondents have confined consideration of the case of the Applicants confining the vacancy position and that too the short term vacancies pertaining to the department of census, Manipur. They have not made any efforts to adjust the Applicants firstly against the long term, vacancy available with the Manipur Census Department including their continuation in their services even against the short term vacancies for which extension has been granted and secondly their cases have not been considered in the perspective of the vacancy position throughout India. The direction of the Hon'ble High Court is not confined to the census department of Manipur alone but is applicable to the entire census departments all over India.

4.12 That the Applicants state that the Respondents by their letters dated 14.2.2000 while banning appointments from open market laid down the criteria of filling up the Group-C and D posts either by promotion or on deputation. As stated above, in fact many vacancies have been filled up on deputation and by way

l/s

of adhoc promotion and in those cases no such plea has been taken as has been taken in the case of the Applicants. Such plea is in respect of alleged continuation of the posts only up to 28.2.2002. As already stated above, the Applicants are eligible to be appointed against any Group-C post and even assuming but not admitting that the services of the Applicants cannot be continued beyond 28.2.2002, they can very well be accommodated against other available vacancies. Even in the Annexure-5 letter dated 14.2.2000 it has been provided that if in case of appointment of officials against census of India -2001, post have to be regularised later, on availability of long term vacancies due to retirement etc., separate orders of their regularisation must be issued.

Copies of the letters both dated 14.2.2000 are annexed as Annexure-A/4 and A/5 respectively.

4.13 That the Government of India in the Department of Personnel and Administrative Reforms 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 will be pertinent to mention here that initially the benefit was extended to such employees who have rendered atleast three years regular continuous service. Now the said benefits has been extended even to the retrenched temporary employees who have put in less than three years of continuous service. Such a scheme has been made effective retrospectively from 1.1.92.

A copy of the said scheme is annexed as Annexure-
A/6.

4.14 That the Applicants state that apart from the vacancies shown in the Affidavit-in-opposition filed before the Hon'ble High Court, the following vacancies are in existence in the Manipur Census Department arising out of retirement on attaining the age of superannuation and/or expiry of the incumbent. In this connection the following lists is furnished which is only illustrative and not exhaustive -

- A. S. Nilamani Singh - Investigator - Retired on 30.8.2000
- B. Ch. Ramananda Singh - Statistical Asstt. Retired on 31.12.2000
- C. R. K. Bimol Singh - Investigator - Retired on 28.2.2001
- D. H. Birbahu Singh - Printing Inspector - Expired on 14.4.2001
- E. Joykumar Singh - Investigator - Retired in 1997
- F. Ng. Ino Singh - Investigator - Retired in 1997
- G. Sanatomba Singh - Investigator - Retired in 1997
- H. Manitombi Singh - Statistical Asstt. - Retired in 1997

The above vacancies, to the best of the knowledge of the Applicants, have not been filled up. Even otherwise also, if the promotions are effected against the aforesaid vacancies, the Applicants could very well be accommodated against the resultant vacancies.

4.15 That the Applicants state that as already stated above the Respondents have wrongly interpreted the

Aben

orders of the Hon'ble Courts and there by have sought to deprive the Applicants from the regular absorption and just to show that the said orders have been complied with, the impugned order dated 30.7.2001 has been issued as an eye wash after depriving the Applicants even from such appointments pursuant to the orders of this Hon'ble Tribunal although there was no stay order against those order from any competent court of law. The Respondents instead of being a model employer have adopted the policy of hire and fire which is opposed to the constitutional mandated and the law laid down by the Apex Court.

4.16 That the Applicants state that they have already been exploited in the matter of employment and it was only after a long fought battle of litigation, they could get the appointments by way of issuance of the order dated 30.7.2001. In terms of the said order, if their services are terminated with effect from 28.2.2002, they will suffer irreparable loss and injury. They cannot be subjected to such illegalities time and again without making any effort for their adjustment/absorption against the vacancies available throughout the country in the census department.

4.17 That the Applicants state that they have made series of representations to the Respondents both oral and written urging for their adjustment against the permanent vacancies now available with the Manipur Census Department. However, all such requests have

Liber

fallen into the deaf ears of the Respondents. After filing of the aforesaid cases by the Applicants to assert their right, the Respondents have adopted a vindictive attitude against each one of them. In the aforesaid legal battle, the Respondents took all sorts of pleas to defeat the cause of the Applicants. Such pleas never included the plea of non-availability of vacancy which they now take to defeat the mandate of the said judgments. Such an attitude on the part of the Respondents is unbecoming of a model employer and opposed to the principles relating to public employment. The Respondents have even violated their own Annexure-5 letter dated 14.2.2000 in terms of which the case of the Applicants is required to be considered against long term vacancies for regularisation of their services.

The Applicants crave leave of this Hon'ble Tribunal to refer and rely upon the pleadings of the Respondents in the aforesaid proceedings 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 has been raised only now to defeat the just claim of the Applicants. The Applicants further crave leaves of the Hon'ble Tribunal to refer and rely upon the representations submitted by them both individual and collective at the time of hearing of the case. Some of the copies of the representations are not available with the Applicants since they did not keep copies of the same. However,

Lassen

the same are being collected from the office.

4.18 That it is in the above circumstances, the Applicants have filed the present OA seeking urgent and immediate relief.

4.19 That the Applicants state that it is a fit case for passing an interim order as has been prayed for. The balance of convenience lies in favour of the Applicants for passing such an interim order.

5. GROUND FOR RELIEF WITH LEGAL PROVISIONS :

5.1 For that the impugned order is per se illegal in so far as it restricts the appointment of the Applicants up to a certain date inasmuch as same is opposed to the spirit of the judgments of this Hon'ble Tribunal affirmed by the Hon'ble High Court.

5.2 For that as per the scheme formulated towards absorption of the retrenched census employees, the case of the Applicants is required to be considered instead of giving them appointment against short term vacancies and that too without considering their case against the said posts for which extension has been granted.

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

5.4 For that the Applicants being the retrenched census employees, they are entitled to get preferential

user

treatment in the matter of appointment instead of confining their such appointment for a limited period only.

5.5 For that the action of the Respondents is totally opposed to the spirit of the orders passed by this Hon'ble Tribunal and affirmed by the Hon'ble High Court.

5.6 For that it was never the intention of the Hon'ble Courts to provide employments to the Applicants only against short term vacancies inasmuch as the census operation is a permanent department and the vacancies are operated to obtain the goal sought to be assive through the census operation. Thus the case of the Applicants are required to be considered even against the permanent vacancies just not confining to Manipur Census Department only.

5.7 For that the Applicants are entitled to get their absorption against any available vacancy throughout the country, but the Respondents having confine their case only to Manipur Census Department have acted against the said judgments of the Hon'ble Courts.

5.8 For that the case of the Applicants having not been considered in its true perspective, the Respondents are guilty of committing contempt of this Hon'ble Tribunal. The Respondents have even ignored their own circular dated 14.2.2000 (Annexure-5) in terms of which the case of the Applicants is required to be considered for regularisation against long term vacancies.

Aben

5.9 For that in any view of the matter, the action/inaction on the part of the Respondents is not sustainable and the Applicants are entitled to the reliefs sought for in this OA.

6. DETAILS OF REMEDIES EXHAUSTED :

The Applicants declare that they have exhausted all the remedies available to them and there is no alternative remedy available to them in law.

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

The Applicants further declare that they have notified any application, writ petition or suit regarding the matter in respect of which this applicant has been made before any Court, Authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. RELIEFS SOUGHT FOR :

Under the facts and circumstances and in the premises aforesaid the OA be admitted records be called for an upon hearing the parties on the cause or causes that may be shown and on perusal of the records be pleased to grant the following reliefs :

8.1 To set aside and quash that part of the Annexure-2 impugned order dated 30.7.2001 so far as it restricts the appointments of the Applicants only upto 28.2.2002.

8.2 To direct the Respondents to regularise and/or

Liberi

- 17 -

absorbed the Applicants against long term vacancies and to maintain continuation of their services.

8.3 Cost of the application.

8.5 To pass any other order/orders or give direction/directions as may be deemed fit and proper under the facts and circumstances of the case to give complete and full relief to the Applicants.

9. INTERIM ORDER PRAYED FOR :

In the facts and circumstances stated above, the Applicant prays for an interim relief by way of a direction to the Respondents not to terminate the services of the Applicants and allow them continue in their services beyond 28.2.2002 and/or to stay that part of the order dated 30.7.2001 (Annexure-2) by which the appointment of the Applicants has been restricted only upto 28.2.2002 and/or to grant any other interim relief so as to protect the services interest of the Applicants and to give them continuation of their services.

10.

The application is filed through Advocate.

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

- i) I.P.O. No. : 76550920
- ii) Date : 7/2/02
- iii) Payable at : Guwahati.

12. LIST OF ENCLOSURES :

As stated in the Index.

1000

VERIFICATION

I, Smt. Usham Kamila Devi, aged about 35 years, daughter of Usham Rupachandra, resident of Awang Sekmet, Manipur, do hereby solemnly affirm and verify that the statements made in paragraphs 2,3,4'1-4'6,4'11,4'14 to 4'19 and 5 to 12 are true to my knowledge ; those made in paragraphs 1,4'7-4'10,4'12 and 4'13 are true to my information derived from records and the rests are my humble submissions before the Hon'ble Tribunal.

And I sign this verification on this the 25th day of February, 2002.

Usham Kamila Devi

ORDER
Imphal, February 25, 2000

Whereas an order No.C.18013/1/99-IX(UKD) dated 30-12-99 was issued granting Smt. Usham Kamila Devi a retrenched Census employee certain concessions such as relaxation in maximum age limit to the extent of temporary service rendered by her before retrenchment, exemption from the sponsorship by Employment Exchange and priority in employment in respect of direct recruit vacancies in the Central Govt. subject to the fulfilling the eligibility criteria prescribed for any direct recruitment vacancy notified by the Central Govt. in consideration of the judgement passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench on 4th October, 1999 in respect of O.A. 182/99 filed by Smt. Usham Kamila Devi ;

Whereas Smt. Usham Kamila Devi a retrenched Census employee was again appointed as Assistant Compiler in this Directorate on ad-hoc basis for a period of six months w.e.f. 3rd Jany. 2000 under this office order No. C.18013/1/99-IX(UKD) dated 3rd Jany. 2000 in consideration of her application submitted to this office on 11-10-99 and 13-12-99 as per the judgement of Central Administrative Tribunal, Guwahati Bench passed in O.A. No. 182/99 ;

Whereas the office of Registrar General, India has directed that the ad-hoc appointment of Smt. Usham Kamila Devi be terminated from the post of Assistant Compiler without any liability on this Directorate for her continuation in the said post with immediate effect as such post is to be filled in by Staff Selection Commission and also directed to send requisition for the vacant post to the Staff Selection Commission with the copy of the judgement so that the relaxation ~~per~~ permitted by the Central Administrative Tribunal could be considered by Staff Selection Commission while filling up the post ;

Now, therefore, the ad-hoc appointment of Smt. Usham Kamila Devi is hereby terminated from the post of Assistant Compiler with immediate effect.

U. Kamila Devi

(Kh. Dinamani Singh)
DIRECTOR

No. C.18013/1/99-IX(UKD) / 308 Imphal, February 25, 2000
Copy to :- 1) Smt. Usham Kamila Devi, A.C. for information.
2) The Lt. Registrar General, O/o the Registrar General, India w.r.t. their letter No. A.42011/14/99-Ad.II dated 16-2-2000 for information.
3) The Pay & Accounts Officer(Census), AGCRM-Building, 4th Floor, D-Wing, New Delhi-110002.
4) The HC/Asstt. of this office for information.
5) The relevant file.

67
Attested
ADM
Advocate.

(Kh. Dinamani Singh)
DIRECTOR

1/1/2000
2/2/2000
2/3/2000
2/4/2000
2/5/2000
2/6/2000
2/7/2000
2/8/2000
2/9/2000
2/10/2000
2/11/2000
2/12/2000
2/13/2000
2/14/2000
2/15/2000
2/16/2000
2/17/2000
2/18/2000
2/19/2000
2/20/2000
2/21/2000
2/22/2000
2/23/2000
2/24/2000
2/25/2000
2/26/2000
2/27/2000
2/28/2000
2/29/2000
2/30/2000
2/31/2000
3/1/2000
3/2/2000
3/3/2000
3/4/2000
3/5/2000
3/6/2000
3/7/2000
3/8/2000
3/9/2000
3/10/2000
3/11/2000
3/12/2000
3/13/2000
3/14/2000
3/15/2000
3/16/2000
3/17/2000
3/18/2000
3/19/2000
3/20/2000
3/21/2000
3/22/2000
3/23/2000
3/24/2000
3/25/2000
3/26/2000
3/27/2000
3/28/2000
3/29/2000
3/30/2000
3/31/2000
4/1/2000
4/2/2000
4/3/2000
4/4/2000
4/5/2000
4/6/2000
4/7/2000
4/8/2000
4/9/2000
4/10/2000
4/11/2000
4/12/2000
4/13/2000
4/14/2000
4/15/2000
4/16/2000
4/17/2000
4/18/2000
4/19/2000
4/20/2000
4/21/2000
4/22/2000
4/23/2000
4/24/2000
4/25/2000
4/26/2000
4/27/2000
4/28/2000
4/29/2000
4/30/2000
5/1/2000
5/2/2000
5/3/2000
5/4/2000
5/5/2000
5/6/2000
5/7/2000
5/8/2000
5/9/2000
5/10/2000
5/11/2000
5/12/2000
5/13/2000
5/14/2000
5/15/2000
5/16/2000
5/17/2000
5/18/2000
5/19/2000
5/20/2000
5/21/2000
5/22/2000
5/23/2000
5/24/2000
5/25/2000
5/26/2000
5/27/2000
5/28/2000
5/29/2000
5/30/2000
5/31/2000
6/1/2000
6/2/2000
6/3/2000
6/4/2000
6/5/2000
6/6/2000
6/7/2000
6/8/2000
6/9/2000
6/10/2000
6/11/2000
6/12/2000
6/13/2000
6/14/2000
6/15/2000
6/16/2000
6/17/2000
6/18/2000
6/19/2000
6/20/2000
6/21/2000
6/22/2000
6/23/2000
6/24/2000
6/25/2000
6/26/2000
6/27/2000
6/28/2000
6/29/2000
6/30/2000
7/1/2000
7/2/2000
7/3/2000
7/4/2000
7/5/2000
7/6/2000
7/7/2000
7/8/2000
7/9/2000
7/10/2000
7/11/2000
7/12/2000
7/13/2000
7/14/2000
7/15/2000
7/16/2000
7/17/2000
7/18/2000
7/19/2000
7/20/2000
7/21/2000
7/22/2000
7/23/2000
7/24/2000
7/25/2000
7/26/2000
7/27/2000
7/28/2000
7/29/2000
7/30/2000
7/31/2000
8/1/2000
8/2/2000
8/3/2000
8/4/2000
8/5/2000
8/6/2000
8/7/2000
8/8/2000
8/9/2000
8/10/2000
8/11/2000
8/12/2000
8/13/2000
8/14/2000
8/15/2000
8/16/2000
8/17/2000
8/18/2000
8/19/2000
8/20/2000
8/21/2000
8/22/2000
8/23/2000
8/24/2000
8/25/2000
8/26/2000
8/27/2000
8/28/2000
8/29/2000
8/30/2000
8/31/2000
9/1/2000
9/2/2000
9/3/2000
9/4/2000
9/5/2000
9/6/2000
9/7/2000
9/8/2000
9/9/2000
9/10/2000
9/11/2000
9/12/2000
9/13/2000
9/14/2000
9/15/2000
9/16/2000
9/17/2000
9/18/2000
9/19/2000
9/20/2000
9/21/2000
9/22/2000
9/23/2000
9/24/2000
9/25/2000
9/26/2000
9/27/2000
9/28/2000
9/29/2000
9/30/2000
10/1/2000
10/2/2000
10/3/2000
10/4/2000
10/5/2000
10/6/2000
10/7/2000
10/8/2000
10/9/2000
10/10/2000
10/11/2000
10/12/2000
10/13/2000
10/14/2000
10/15/2000
10/16/2000
10/17/2000
10/18/2000
10/19/2000
10/20/2000
10/21/2000
10/22/2000
10/23/2000
10/24/2000
10/25/2000
10/26/2000
10/27/2000
10/28/2000
10/29/2000
10/30/2000
10/31/2000
11/1/2000
11/2/2000
11/3/2000
11/4/2000
11/5/2000
11/6/2000
11/7/2000
11/8/2000
11/9/2000
11/10/2000
11/11/2000
11/12/2000
11/13/2000
11/14/2000
11/15/2000
11/16/2000
11/17/2000
11/18/2000
11/19/2000
11/20/2000
11/21/2000
11/22/2000
11/23/2000
11/24/2000
11/25/2000
11/26/2000
11/27/2000
11/28/2000
11/29/2000
11/30/2000
12/1/2000
12/2/2000
12/3/2000
12/4/2000
12/5/2000
12/6/2000
12/7/2000
12/8/2000
12/9/2000
12/10/2000
12/11/2000
12/12/2000
12/13/2000
12/14/2000
12/15/2000
12/16/2000
12/17/2000
12/18/2000
12/19/2000
12/20/2000
12/21/2000
12/22/2000
12/23/2000
12/24/2000
12/25/2000
12/26/2000
12/27/2000
12/28/2000
12/29/2000
12/30/2000
12/31/2000
1/1/2001
1/2/2001
1/3/2001
1/4/2001
1/5/2001
1/6/2001
1/7/2001
1/8/2001
1/9/2001
1/10/2001
1/11/2001
1/12/2001
1/13/2001
1/14/2001
1/15/2001
1/16/2001
1/17/2001
1/18/2001
1/19/2001
1/20/2001
1/21/2001
1/22/2001
1/23/2001
1/24/2001
1/25/2001
1/26/2001
1/27/2001
1/28/2001
1/29/2001
1/30/2001
1/31/2001
2/1/2001
2/2/2001
2/3/2001
2/4/2001
2/5/2001
2/6/2001
2/7/2001
2/8/2001
2/9/2001
2/10/2001
2/11/2001
2/12/2001
2/13/2001
2/14/2001
2/15/2001
2/16/2001
2/17/2001
2/18/2001
2/19/2001
2/20/2001
2/21/2001
2/22/2001
2/23/2001
2/24/2001
2/25/2001
2/26/2001
2/27/2001
2/28/2001
2/29/2001
2/30/2001
2/31/2001
3/1/2001
3/2/2001
3/3/2001
3/4/2001
3/5/2001
3/6/2001
3/7/2001
3/8/2001
3/9/2001
3/10/2001
3/11/2001
3/12/2001
3/13/2001
3/14/2001
3/15/2001
3/16/2001
3/17/2001
3/18/2001
3/19/2001
3/20/2001
3/21/2001
3/22/2001
3/23/2001
3/24/2001
3/25/2001
3/26/2001
3/27/2001
3/28/2001
3/29/2001
3/30/2001
3/31/2001
4/1/2001
4/2/2001
4/3/2001
4/4/2001
4/5/2001
4/6/2001
4/7/2001
4/8/2001
4/9/2001
4/10/2001
4/11/2001
4/12/2001
4/13/2001
4/14/2001
4/15/2001
4/16/2001
4/17/2001
4/18/2001
4/19/2001
4/20/2001
4/21/2001
4/22/2001
4/23/2001
4/24/2001
4/25/2001
4/26/2001
4/27/2001
4/28/2001
4/29/2001
4/30/2001
5/1/2001
5/2/2001
5/3/2001
5/4/2001
5/5/2001
5/6/2001
5/7/2001
5/8/2001
5/9/2001
5/10/2001
5/11/2001
5/12/2001
5/13/2001
5/14/2001
5/15/2001
5/16/2001
5/17/2001
5/18/2001
5/19/2001
5/20/2001
5/21/2001
5/22/2001
5/23/2001
5/24/2001
5/25/2001
5/26/2001
5/27/2001
5/28/2001
5/29/2001
5/30/2001
5/31/2001
6/1/2001
6/2/2001
6/3/2001
6/4/2001
6/5/2001
6/6/2001
6/7/2001
6/8/2001
6/9/2001
6/10/2001
6/11/2001
6/12/2001
6/13/2001
6/14/2001
6/15/2001
6/16/2001
6/17/2001
6/18/2001
6/19/2001
6/20/2001
6/21/2001
6/22/2001
6/23/2001
6/24/2001
6/25/2001
6/26/2001
6/27/2001
6/28/2001
6/29/2001
6/30/2001
7/1/2001
7/2/2001
7/3/2001
7/4/2001
7/5/2001
7/6/2001
7/7/2001
7/8/2001
7/9/2001
7/10/2001
7/11/2001
7/12/2001
7/13/2001
7/14/2001
7/15/2001
7/16/2001
7/17/2001
7/18/2001
7/19/2001
7/20/2001
7/21/2001
7/22/2001
7/23/2001
7/24/2001
7/25/2001
7/26/2001
7/27/2001
7/28/2001
7/29/2001
7/30/2001
7/31/2001
8/1/2001
8/2/2001
8/3/2001
8/4/2001
8/5/2001
8/6/2001
8/7/2001
8/8/2001
8/9/2001
8/10/2001
8/11/2001
8/12/2001
8/13/2001
8/14/2001
8/15/2001
8/16/2001
8/17/2001
8/18/2001
8/19/2001
8/20/2001
8/21/2001
8/22/2001
8/23/2001
8/24/2001
8/25/2001
8/26/2001
8/27/2001
8/28/2001
8/29/2001
8/30/2001
8/31/2001
9/1/2001
9/2/2001
9/3/2001
9/4/2001
9/5/2001
9/6/2001
9/7/2001
9/8/2001
9/9/2001
9/10/2001
9/11/2001
9/12/2001
9/13/2001
9/14/2001
9/15/2001
9/16/2001
9/17/2001
9/18/2001
9/19/2001
9/20/2001
9/21/2001
9/22/2001
9/23/2001
9/24/2001
9/25/2001
9/26/2001
9/27/2001
9/28/2001
9/29/2001
9/30/2001
10/1/2001
10/2/2001
10/3/2001
10/4/2001
10/5/2001
10/6/2001
10/7/2001
10/8/2001
10/9/2001
10/10/2001
10/11/2001
10/12/2001
10/13/2001
10/14/2001
10/15/2001
10/16/2001
10/17/2001
10/18/2001
10/19/2001
10/20/2001
10/21/2001
10/22/2001
10/23/2001
10/24/2001
10/25/2001
10/26/2001
10/27/2001
10/28/2001
10/29/2001
10/30/2001
10/31/2001
11/1/2001
11/2/2001
11/3/2001
11/4/2001
11/5/2001
11/6/2001
11/7/2001
11/8/2001
11/9/2001
11/10/2001
11/11/2001
11/12/2001
11/13/2001
11/14/2001
11/15/2001
11/16/2001
11/17/2001
11/18/2001
11/19/2001
11/20/2001
11/21/2001
11/22/2001
11/23/2001
11/24/2001
11/25/2001
11/26/2001
11/27/2001
11/28/2001
11/29/2001
11/30/2001
12/1/2001
12/2/2001
12/3/2001
12/4/2001
12/5/2001
12/6/2001
12/7/2001
12/8/2001
12/9/2001
12/10/2001
12/11/2001
12/12/2001
12/13/2001
12/14/2001
12/15/2001
12/16/2001
12/17/2001
12/18/2001
12/19/2001
12/20/2001
12/21/2001
12/22/2001
12/23/2001
12/24/2001
12/25/2001
12/26/2001
12/27/2001
12/28/2001
12/29/2001
12/30/2001
12/31/2001
1/1/2002
1/2/2002
1/3/2002
1/4/2002
1/5/2002
1/6/2002
1/7/2002
1/8/2002
1/9/2002
1/10/2002
1/11/2002
1/12/2002
1/13/2002
1/14/2002
1/15/2002
1/16/2002
1/17/2002
1/18/2002
1/19/2002
1/20/2002
1/21/2002
1/22/2002
1/23/2002
1/24/2002
1/25/2002
1/26/2002
1/27/2002
1/28/2002
1/29/2002
1/30/2002
1/31/2002
2/1/2002
2/2/2002
2/3/2002
2/4/2002
2/5/2002
2/6/2002
2/7/2002
2/8/2002
2/9/2002
2/10/2002
2/11/2002
2/12/2002
2/13/2002
2/14/2002
2/15/2002
2/16/2002
2/17/2002
2/18/2002
2/19/2002
2/20/2002
2/21/2002
2/22/2002
2/23/2002
2/24/2002
2/25/2002
2/26/2002
2/27/2002
2/28/2002
2/29/2002
2/30/2002
2/31/2002
3/1/2002
3/2/2002
3/3/2002
3/4/2002
3/5/2002
3/6/2002
3/7/2002
3/8/2002
3/9/2002
3/10/2002
3/11/2002
3/12/2002
3/13/2002
3/14/2002
3/15/2002
3/16/2002
3/17/2002
3/18/2002
3/19/2002
3/20/2002
3/21/2002
3/22/2002
3/23/2002
3/24/2002
3/25/2002
3/26/2002
3/27/2002
3/28/2002
3/29/2002
3/30/2002
3/31/2002
4/1/2002
4/2/2002
4/3/2002
4/4/2002
4/5/2002
4/6/2002
4/7/2002
4/8/2002
4/9/2002
4/10/2002
4/11/2002
4/12/2002
4/13/2002
4/14/2002
4/15/2002
4/16/2002
4/17/2002
4/18/2002
4/19/2002
4/20/2002
4/21/2002
4/22/2002
4/23/2002
4/24/2002
4/25/2002
4/26/2002
4/27/2002
4/28/2002
4/29/2002
4/30/2002
5/1/2002
5/2/2002
5/3/2002
5/4/2002
5/5/2002
5/6/2002
5/7/2002
5/8/2002
5/9/2002
5/10/2002
5/11/2002
5/12/2002
5/13/2002
5/14/2002
5/15/2002
5/16/2002
5/17/2002
5/18/2002
5/19/2002
5/20/2002
5/21/2002
5/22/2002
5/23/2002
5/24/2002
5/25/2002
5/26/2002
5/27/2002
5/28/2002
5/29/2002
5/30/2002
5/31/2002
6/1/2002
6/2/2002
6/3/2002
6/4/2002
6/5/2002
6/6/2002
6/7/2002
6/8/2002
6/9/2002
6/10/2002
6/11/2002
6/12/2002
6/13/2002
6/14/2002
6/15/2002
6/16/2002
6/17/2002
6/18/2002
6/19/2002
6/20/2002
6/21/2002
6/22/2002
6/23/2002
6/24/2002
6/25/2002
6/26/2002
6/27/2002
6/28/2002
6/29/2002
6/30/2002
7/1/2002
7/2/2002
7/3/2002
7/4/2002
7/5/2002
7/6/2002
7/7/2002
7/8/2002
7/9/2002
7/10/2002
7/11/2002
7/12/2002
7/13/2002
7/14/20

IN THE GAUHATI HIGH COURT

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

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

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

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

.... Petitioners.

-Versus-

Oinam Indramani Singh,
Imphal, Manipur.

.... Respondent.

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

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

.... Petitioners

-Versus-

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

.... Respondent.

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

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

.... Petitioners.

-Versus-

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

.... Respondent.

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

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

.... Petitioners

-Versus-

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

.... Respondent

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

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

.... Petitioners.

-Versus.-

AMG/ST
AO
10/10/2001

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

... Respondent.

(6) In WP(C) No. 2536/2001 :-

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

... Petitioners.

-Versus-

Th. Basanta Singh,
of Bishnupur, Imphal.

... Respondent.

(7) In WP(C) No. 2537/2001 :-

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

-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)

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

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

Amoson
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. Ammenden 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 ...

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. Ammenden 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."

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 Ammen-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 that as per the scheme approved by the Apex Court the retrenchedees 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 retrenchedes according to their length of service. A person with longer length of service in a particular category would

be

Attested
M. A. M.
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
Secretary, be given to the counsel for the
parties.

W. Weber
1883-1886



भारत सरकार
GOVERNMENT OF INDIA

ANNEXURE-A/2

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

कार्यालय जनगणना परिचालन निदेशक, मणिपुर

OFFICE OF THE DIRECTORATE OF CENSUS OPERATIONS,
MANIPUR

सं/No. A. 12021/5/98-App/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 retrenchedes 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) retrenchedes 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

- : 2 : -

The re-engagement of the above retrenchedes 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)
Asstt. Director of Census
Operations. Manipur

Memo No. A.12021/5/98-App/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.

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

Attested

M. B. Singh
Advocate.

Ole

ANNEXURE—A/B

Service
26.5.01
Filed.

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. Abutat, resident of Top Khongnangmaththong, 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

Arrested
JAN
cate.

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

ANUJ

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 rules. 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.

4. A copy of the review application bearing No. RA dated 17/7/2000 is annexed as ANNEXURE-1.

5. The deponent craves leave to produce the copy of the scheme under OM No. 280217/2/92 Estt(B) dated 22.4.92 issued by the Government of India at the time of hearing of this petition.

6. 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


Advocate.

and the O.P.C. 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 repugned 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 by 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

Attested
Liber
Advocate

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 craves 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.LL.

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.52012/3/2000-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-Appet(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).

Attested
[Signature]
Advocate

dated 16.4.2001. 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 23.1.2000 and vacancy notice dated 5.9.2000 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.

Arrested
M. S. S.
Advocate.

6.11016/2/89-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 23.12.93, 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. 3675/91-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.

Abul
Mohammed
Advocate.

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

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 malafide 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

Attested
M. R. Rao
Advocate.

consider the content of today's telegram on the instant
transcript.

1. That under the facts and circumstances above, the
strict prohibition of each and individual listed to be
observed and obeyed.

2. That the statements made in this transcript in
the respects 1, 2 and 3 are true to my knowledge; that
such people, namely, S, G, Z and B, to the members of
which I am fully apprised of my information derived therefrom
and the exact place, time and subject before this
transcript.

And I sign this affidavit on this the 13th day of
May 1933 at Sacramento.

Subscribed by me,

Department.

Almon G. Clark

Arrested
Almon
Advocate.

10 - 3 APR 2000
Central Administrative Tribunal
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH

37-ANNEXURE-1

R.A.NO. 7 OF 2000

IN O.A.NO. 52 OF 2000

IN THE MATTER OF

A Review Application under section 22
(3) (f) of the Central Administrative
Tribunal Act, 1985.

-AND-

IN THE MATTER OF

Judgment and Order dated 16.2.2000
passed by the Hon'ble Tribunal in O.A.
No. 52/2000.

-AND-

IN THE MATTER OF

1. Union of India
represented by the Secretary of
the Govt. of India, Ministry of
Home, New Delhi.
2. The Registrar General of India
2A Hauz Khas Road, New Delhi.
3. The Director of Census Operation,
Manipur represented by the
Dy. Director, Census Operation

RECORDED
M/s
100000

..... Petitioners

Respondents

-VS-

Md. Hasim Khan

.... Opposite Party

Applicant

The humble petition of the above
named petitioners.

MOST RESPECTFULLY SWEATH :

1. That the matter came up for admission on 16.2.2000
and this was disposed of on the date of admission in the
light of the decision of the Hon'ble Supreme Court in
Govt. of TamilNadu and another VS. G. Md. Ammiuddin and
Others (1999) 7SCC 499 and directed that the respondents
shall make the appointment immediately not later than two
months from the date of receipt of the order. This order
has been received by the respondents on 6.3.2000.

2. That the order of the Hon'ble Tribunal to make
the appointment immediately not later than two months
from the date of receipt of the order has been made
without any reference to the vacancy position.

Thus being highly aggrieved by and dissatisfied

ABD

3.

with the aforesaid Judgment and Order dated 16.2.2000 the petitioners/respondents prefer this Review Application on the following amongst others.

G R O U N D S

(a) For that creation of the posts or the occurrence of any vacancy is not in the hands of the respondents. Creations of new posts depends entirely on the Government policy.

(b) For that the Registrar General of India has given directions to all the Directorates including the Directorate of Census Operation, Manipur under letter No. 120011/3/2000-Ad IV dated 14.2.2000 and No. 120011/-4/2000-Ad IV dated 14.2.2000 to ensure that all posts available for Census of India 2001 in Group 'C' and 'D' are filled in only either by promotion or on ^{to be} deputation basis in accordance with the provisions of Recruitment Rules. Direct recruitment from open market is not to be made in any case for Group 'C' & 'D' posts.

Copies of both the letters dated 14.2.2000 are annexed hereto

and marked as ANNEXURES -A & B.

(c) For that the presumption of the applicants that there are vacancies is not correct.

Arrested
Ch
Advocate.

It is therefore, respectfully
prayed that the Hon'ble Tribunal
be pleased to admit the Review
Application, call for the records,
issue notices to the Opposite
Party/Applicant and after hearing
the parties, review the impugned
judgment and order dated 16.2.2000
and decide the O.A. in accordance
with law.

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

Attested

Advocate.

Page 14

- 4 Ltr. inc. dep. of Govt. of India
- 14 -

ANNEXURE - 2

A.32012/3/2000-Estt

Yunnam Leikai
21.6.2000

To

The Deputy Director Ad.IV
O/o the Registrar General of India
Kotah House Annex, 2/A, Mansingh Road,
NEW DELHI 110011.

Vacancy
Position

Subject:- Constitution of DPC in the office of the Director
of Census Operations, Manipur.

Madam,

I have the honour to refer to this office order No.A.32012/3/2000-Estt. dated 27.4.2000 and copy endorsed to the Office of the Registrar General, India and to say that the Departmental Promotion Committee(DPC) in respect of the group C & D posts has been constituted with the Director as Chairman (Copy of the Order is enclosed for reference).

Further, I am to state that this office has been sanctioned a number of 2001-Census posts in different grades w.e.f.1.2.2000. At present one post of Deputy Director is lying vacant since Nov. '98 and request has been made to fill up the post in this connection, however till now the post has not yet been filled up. This office has no alternative but to constitute the D.P.C. to enable this office to take up necessary action in filling up the posts created in connection with 2001-Census as well as the long term vacant posts in time. Hence this office has constituted the D.P.C. under Office Order dated 27.4.2000 referred above with the Director of this office as Chairman.

I am, therefore, to request you kindly to convey the sanction of the Registrar General, India to the approval of the D.P.C. constituted in this Directorate and communicate the same to this office at an early date.

Yours faithfully,

Encl.: As above.

(KH. DINAMANI SINGH)
DIRECTOR
TELEFAX NO. 0385 220215

ANNUAL
Report

Name of the post	Scale of pay	No. of posts proposed to be filled up	Eligibility conditions
1. Junior Stenographer	Rs. 4000- 6000	1 (one)	Officials of Central/State Govt. holding analogous posts possessing the qualifications prescribed for direct recruitment in the Recruitment Rule. 1) Matriculate or equivalent 2) A speed of 80 words per minute in short hand (English or Hindi). 3) A typing speed of 30 words per minute in English or 25 words per minute in Hindi.
2. Draftsman	Rs. 5000- 8000	1 (one)	Officers under Central/State Govt. Offices holding analogous posts possessing the educational qualifications and experience prescribed for direct recruitment. <u>Essential</u> i) Matriculation or equivalent ii) Diploma of not less than 2 years from a recognised Institute in Fine Arts or Commercial Arts or Civil Engineering or two years Certificate of Draughtmanship from a recognised Institute. iii) One year experience in Desk Top Publishing or Autocad or Drawing Maps.
3. Computer	Rs. 4000- 6000	3 (three)	Officials of the Central/State Government holding analogous posts or with 8 years regular service in posts in the pay scale of Rs. 3050-4590 or equivalent and possessing the educational qualification prescribed for direct recruitments. <u>Essential</u> Degree with Economics or Statistics or Mathematics as a subject from any recognised University.

Attested
Signature
Int. Date.

4. Assistant Compiler

Rs. 3050-
4590

3(three)

Officials of the Central Govt/ State Government holding analogous posts or with at least 6 years regular service in posts carrying pay scale of Rs. 2610-3540 or with 8 years regular service in posts carrying pay scale of Rs. 2550-3200 and having qualifications and typing proficiency as per standard prescribed for direct recruitments.

Essential

- 1) Matriculate or equivalent
- 2) Minimum speed of 30 words per minute in type writing in English or 25 words per minute in typewriting in Hindi.

Desirable

Computer proficiency with 'O' Level Certificate recognised by the Department of Electronics in Govt. of India.

5. Lower

Division Clerk

Rs. 3050-
4590

3(three)

Officials of the Central Govt/ State Govt. holding analogous posts or with 6 years regular service in post carrying pay scale of Rs. 2610-3540 or with 8 years regular service in posts carrying pay scale of Rs. 2550-3200 and having qualifications and typing proficiency as per standard prescribed for direct recruitment.

Essential

- 1) Matriculate or equivalent
- 2) Minimum speed of 30 words per minute in type writing in English or 25 words per minute in type writing in Hindi.

Officials of the Central Govt/ State Govt. and possessing the qualification of Middle School Standard pass from a recognised school.

6. Peon

Rs. 2550-
3200

1 (one)

Attested
By
Advocate.

NO.A.12021/5/98-Apptt.

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS
MANIPUR

VACANCY NOTICE
Imphal, 5/9/2000

Posts sought
to be filled up
by deputation

It is proposed to fill up some posts as detailed in the Annexure-I by transfer on deputation basis in the office of the Director of Census Operations, Manipur, Imphal against the short term vacancies created for 2001 Census from amongst suitable officers/ or officials of the Central/State/UTs Government Departments fulfilling the eligibility condition as indicated against the posts.

The pay of the selected officials will be regulated in accordance with the instruction contained in the Department of Personnel and Training OM No. 2/12/87-Estt(Pt.II) dated 29.4.98 as amended from time to time.

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

Application of the officials who are suitable and willing and eligible for appointment by transfer on deputation basis may be forwarded in the enclosed prescribed proforma at Annexure-II along with their ACR Dossiers for proceeding 5 years and Vigilance Clearance Certificate to this office within 6 weeks from the date of publication of advertisement in the Employment News.

Those officials who volunteer for these posts will not be permitted to withdraw their names later on.

SD/-

(KH. DINAMANU SINGH)
DIRECTOR

TELEFAX 0385-220215

No.A.12021/5/98-Apptt/
Copy to:- 1)

Registrar Gistrar General, India, Imphal, 5.9.2000
Kotah House Annex, 2/A, Mansingh Road,
NEW DELHI - 110011 with reference to their letter
No.12011/4/2000-Ad.IV dated 14.2.2000.

- 2) All DCOs in the State/UTs.
- 3) Deputy Director(Advertisement) DAVP, P.T.I. Building
Parliament Street, New Delhi - 110022 (with 3 copies)
for publication in Employment News.
- 4) The Chief Secretary, Govt. of Manipur.
- 5) All Central/State offices located in Manipur.

Sd/-

DIRECTOR

Attested
Nisha
Advocate.

NO. C.18013/1/94-CC(III)/657-

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS
MANIPUR

45 Johnnawala - 10' x 4' x 4'
Annexe - 4

Simi/cty
S/ Simi/cty
S/ Simi/cty

Yumnam Leikai
Imphal-795001
23rd Dec. '98.

OFFICE ORDER

In pursuance of the directive of Central Administrative Tribunal, Guwahati Bench in respect of O.A. No.60/94 the ad-hoc appointment of Smt. Ng. Makai, Assistant Compiler of this office is hereby regularised with immediate effect.

(S. BIRENDRA SINGH)
ASSISTANT DIRECTOR

No. C.18013/1/94-CC(III) Dated Imphal, 23rd Dec. '98
Copy to:-

- 1) Smt. Ng. Makai, Assistant Compiler
- 2) The Deputy Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati - 5 for information
- 3) The Head Clerk of this office for information and necessary action
- 4) The Assistant (A/Cs) of this office for information and necessary action for schemes like C.P.P., C.H.C.G.I.S., etc.
- 5) Other relevant files.

(S. BIRENDRA SINGH)
ASSISTANT DIRECTOR.

Attested
A. S. S.
Advocate.

भारत के राज्यालय, द्वारा दिया गया लिखा
भारत सरकार, द्वारा दिया गया लिखा, 28 मंसिंह रोड, नई दिल्ली 110 011
OFFICE OF THE REGISTRAR GENERAL, INDIA
(Government of India, Ministry of Home Affairs)
28 MANSINGH ROAD, NEW DELHI 110 011

19/6/2000 46 ANNEPORE 5

Ref. No.: 13014/4/98-Ad.1V

Date: 21.6.2000

58

Speed post

9/5/06

Mr. B. K. Deka
(I/C)
To

The Director of Census Operations,
Assam,
Guwahati.

Subject: Regularisation of services of Asstt.
Compilers/L.D.C.s in DCO, Assam.

Sir,

I am directed to refer to your letter
No. DCO(E)24/99/7073 dated 5.6.2000 on the subject
noted above and to say that the services of seven
applicants in O.A. Nos. 284/97, 285/97 and 286/97
may be regularised by the DCO, Assam w.e.f. the date
of issue of the order by the DCO. The ad-hoc
service will not count for promotion and seniority.

Yours faithfully,

Mr. B. K. Deka

(M.R. SINGH)

UNDER SECRETARY TO THE GOVT. OF INDIA

Director of Census
6/1/00 284/97
At. 1. 285/97
286/97

Mr. B. K. Deka
Asstt. Compiler

Associated
Law
Advocates

THE STATE
GOVERNMENT OF ASSAM
THE DIRECTOR OF CENSUS
DIRECTOR OF CENSUS
ASSAM : GUWAHATI
CENSUS OF INDIA
OPERATIONS
ASSAM GUWAHATI

Guwahati
Census
Operations
Assam
Guwahati
X

ORDER

3/10/2000.

In compliance with the Hon'ble Tribunal, Guwahati Bench's order dt. 8/5/2000 in O.A. No.142/2000, the following persons are hereby appointed on a purely temporary basis in the o/o the Director of Census Operations, Assam, Guwahati against the posts shown against each of them with effect from the date they take charge of the post for a period upto 28.02.2001 or until further order which ever is earlier.

SL. No.	Name of the Persons	Name of post appointed	Scale of Pay of the post
1.	Shri Bimalananda Das	Asstt. compiler	Rs. 3050-75-3950-80-
2.	" Harish Ch. Rabha	Computer	4590/- per month.
3.	" Nagen Ch. Rabha	Computer	Rs. 4000-100-6000/-P.M.
4.	" Arjun Barush	Computer	- do -
			- do -

The above appointments have been made against the purely temporary posts sanctioned for Census of India 2001.

This appointment shall not bestow upon the above persons any right for future continuation in this service after Census operation 2001 is over.

The above appointments shall automatically stand terminated on the expiry of the above period even if no separate order for termination order is issued.

(A. MEDHI)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM : GUWAHATI-7.

dt. 3/10/2000.

eno. No. DCO (E) 285/93/Pt. II/10,957-963

Copy to :-
 The R.O.I., 2/A Mansingh Road, New Delhi - 110011.
 The Pay & Accounts Officer (Census), AUCH & M Building, New Delhi-2.
 The DDCO / ADCO's,
 Estt. Branch,
 Accounts Branch,
 File No. DCO (E) 21/78/Pt. II/
 Person concerned.

(A. MEDHI) 3/10/2000
ASSTT. DIRECTOR OF CENSUS OPERATION
ASSAM : GUWAHATI-7.

Shri D. K. Deka, S.A.
 S/o. Late. P. C. Deka, M.A., C.I.D.
 I. Vill. & P.O. Dihingia.
 Dist. Dhemaji, Assam.

D. Deka

Most Immediate

NO
ES

A.11016/2/89-Cell(Pt) /192 dt. 7.2.94

Yunnan Leikai
the 4th Feb. '94

To

The Chief Secretary
Government of Manipur.

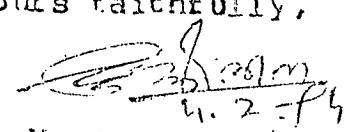
Subject:- Absorption of retrenched staff of Census
Directorate.

Sir,

In continuation of this office letter of even number dated 14th December '92 on the subject indicated above I have the honour to enclose herewith a statement showing the list of 17(seventeen) ad-hoc temporary employees for whose services have been terminated consequent on the expiry of sanction of the post held by them w.e.f. 31.12.93(AM). They have worked in the Directorate on regular time scale of pay in different categories of posts. As per instructions contained received from time to time certain concession may be given to those retrenched Census employees which was extended upto 28.2.94 in recruiting to the suitable posts vide Ministry of Personnel, Public Grievances & Pension, Department of Personnel & Training O.M. No.14024/1/93-Dept(D) dated 4.8.93(Copy enclosed). One Chowkidar/peon will also be retrenched on 28.2.94 due to non availability of post.

I am, therefore, to request you kindly to extend all the possible help for the absorption of the retrenched Census employees to the suitable posts in the Depts. in the State and intimate a position to this office at an early date.

Yours faithfully,


H. S. Meena
Deputy Director.

Encl:- As stated above

ct

2

Attested

Advocate

Advocate

1. Shri P. Arunkumar Singh	Geographer	22-49-Annexure 7 (Contd)
2. Smt. A.S. Dinhah	Draughtsman	
3. Shri Th. Dhananjay Singh	Draughtsman	
4. Md. Basim Khan	F.P.M.O.	
5. Md. Abdul Kalem	Computer	
6. Shri A. Nemicandra Sharma	Computer	
7. Mr. U. Ramila Devi	Computer	
8. Shri Th. Basanta Singh	Computer	
9. Shri Z. Lungrei	Computer	
10. Md. Rashed Khan	Asstt. Compiler	
11. Shri A.S. Stephen	Asstt. Compiler	
12. Smt. Ng. Makan	Asstt. Compiler	
13. Shri Y. Shantikumar Singh	Asstt. Compiler	
14. Md. Habibur Rahman	Proof Reader	
15. Md. Sirajuddin	Peon	
16. Md. Muhamuddin	Peon	
17. Md. Sihabuddin	Sweeper	

(H. S. Meena)

Deputy Director

Imphal, the 11/1/1991

No. A. 12021/4/93-App.

Copy to:-

- 1) All concerned
- 2) The Pay & Accounts Office(Census)
Govt. of India, Ministry of Home Affairs
A.G.C.W. & M. Building, New Delhi-110001.
3. The KC/Asstt (A/C) of this office.
4. The Service book/ personal files.
5. Concerned files.

(Deputy Director)

ANJALI
M. D.
Advocate

23

(4)

Immediate

(4)

24

6A

No. 36/5/91-RC(Ad.H)
 Government of India
 Ministry of Home Affairs
 OFFICE OF THE REGISTRAR GENERAL, INDIA

Kotah House Annexa,
 2/A, Mansingh Road
 New Delhi-110011

December 25, 1991.

To

The Secretary of all Ministry/Dept.
 of the Govt. of India

Subject: Absorption of retrenched census employees who were appointed against short-term vacancies created in connection with the 1991 Census Operations.

Sir,

A large number of group 'C' and 'D' staff were appointed for a short duration of a year or two in connection with the manual processing of data collected in the 1991 Census field operations for which purpose about 100 Regional Tabulation Offices (RTOs) have been set up throughout the country. The work for which these temporary staff have been engaged is expected to be completed in 1992. Thereafter these offices will be wound up and the staff disbanded.

2. It may kindly be appreciated that the mass retrenchment of staff is bound to create a human problem of grave magnitude for the Central Government. It is for the solution of this grave problem that I am seeking your cooperation and assistance as we elicited in the 1971 and 1981 Censuses. In this connection, I am enclosing a copy of the then Registrar General, India, letter No. 24/3/81-Ad.I dated October 19, 1981 which explains the position fully and I need hardly add anything to it even by way of emphasis.

3. In the circumstances and considering the magnitude of this human problem, I look forward to your cooperation and assistance in absorbing retrenched census employees.

2/..

Attn
 25/12/91

- 25 -

- 2 -

In your various offices/PSUs/autonomous bodies, You are requested to kindly issue suitable instructions in this regard to your offices and public sector undertakings/autonomous bodies under the control of your Ministry/Department to consider the retrenched census employees favourably in preference; to raw recruits by according higher priority and special consideration to the former.

Yours faithfully,

(A.R. Nanda)
Registrar General, India

Encl: As above

W.D.

प्राची । "जनगणना"
Telegram : "REGCENLIND"

- 16 - 52 -

क्र. No. 12011/3/2000-Ad. IV

मार्य सरकार
GOVERNMENT OF INDIA

मृत्यु संबंध
MINISTRY OF HOME AFFAIRS/OMR MANTRALAYA
भारत के मृत्यु रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

ANNEXURE-A/4

ANNEXURE-A/4

R No. 321/
23/2/2000

2/A Mansingh Road

गृह विभाग, रिजिस्ट्रार
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.

24/2

Yours faithfully,

(JAYASHREE GUPTA)

Joint Registrar General, India

Amrit
Lal
Advocate.

ANNEXURE-6/A

ANNEXURE-A/5

REGISTRAR GENERAL OF INDIA

Regd. No. 12011/4/2000-AD. I.V

MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA

मंत्री सचिव
MINISTRY OF HOME AFFAIRS/GRH MANTRALAYA
प्राचल के महाराजस्त्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

R. NO. 2312/2000

ग्रहीनी, भौत 2/A, Mansingh 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

Advocate

M. R. Singh
Advocate

- 2001

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

All
Advoc

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:

(a) Educational qualifications ...	Essential	Desirable
(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. D. D.
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—A66

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

Attested
N. A. M.
Advocate.

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 D.P. & A.R., O.M., 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. & T., O.M. No. 28017/7/92-Estt. (D), dated the 22nd January, 1993.]

IN THE ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

O.A.NO. 62 OF 2002

Smt. Usham Kamila Devi & Ors.

-VS-

Union of India & Ors.

-And-

In the Matter of ::

Written statement submitted by the respondents.

The respondents beg to submit written statement as follows :-

PRELIMINARY SUBMISSION :-

- I) As per direction of the Hon'ble Tribunal passed in O.A. 182/99, the petitioner was to be absorbed only against the temporary posts created for Census Operation – 2001. When the order of the Hon'ble Tribunal was to engage the petitioner against census operation posts and he was engaged against census posts only, his services are bound to be terminated alongwith abolitions of census posts. In view of the law laid down by the Hon'ble Supreme Court in Anjali Bepari Vs. Central Welfare Board, 1996(2) P.316 (SCSL7) once post is abolished, the applicant cannot be continued.
- II) There are no regular vacancies of Computer to absorb the petitioners. Further the appointment to regular post of Computer (now Compiler) is made through 100 % promotion failing which by deputation and failing both by direct recruitment. The applicants cannot be regularized/appointed against regular posts through back door in deviation of the recruitment rules framed under Article 309 of the Constitution. However, in view of the order of the Hon'ble Tribunal as and when occasion will arise to report any vacancy to SSC for direct recruitment only after invoking first mode, i.e. promotion and second mode, i.e.

Filed by
A. DEEPALI

1/1/02
X9

(A. DEEPALI)
Smt. C. G. S. C.
C. A. P. C. B. C. Bench

(2)
80

deputation, the department will write to Staff Selection Commission to act as per law laid down in the case of G. Ameenuddin by Hon'ble Supreme Court as also as per the order of this Hon'ble Tribunal. The respondents crave leave of this Hon'ble Tribunal to refer to the decision of Hon'ble Apex Court in 1992 SCC(L&S) P.805 1996 (2) SCSLT P. 316 State of Haryana & Others Vs. Piara Singh & Others 1992(4) Supreme Court Cases 118.

- III) That no cause of action has arisen to applicant to file the O.A. The applicant cannot challenge the order by which he is given appointment.
- IV) The OA is hit by principle of promissory estoppel, once the applicant has accepted the job in terms of the order dated 30.7.2001, he is estopped from challenging the same.

PARAWISE REPLY :-

- 1. That with regard to para-1 of OA, the respondents beg to state that the applicants were retrenched employees of 1991 Census and were re-engaged as Compilers (previously Computors) under this office order No. 12021/5/98-98-Apptt.(pt)/135 dated 30.7.2001 in compliance with the directions of the Hon'ble Tribunal, Guwahati Bench and the Hon'ble High Court which says that the applicants may be absorbed in the vacancy that will occur for Census Operations of 2000.

Copy of letter dated 30.7.2001 is annexed as Annexure- R/1

The re-engagement is for a period upto 28.02.2002 (i.e. the date upto which the posts were created for Directorate of Census Operations, Manipur by the office of the Registrar General, India) or till the abolition of the posts whichever is earlier. The tenure of re-engagement is confined to the posts created for 2001 Census and the available vacancies were offered to the above retrenchees according to the length of service they have put in the 1991 Census in the grade of Computer as per direction of Hon'ble high Court. As 2001 Census has been completed the three posts in the grade of Compiler created for 2001 Census have been abolished w.e.f. 1.3.2002 under the Office of the Registrar General's letter No. A-11020/1/99-Ad.II dated 18.2.2002. Accordingly the services of the three Compilers re-engaged under this office order dated 30.7.2001 referred to above have also been terminated w.e.f.

(3)
81

28.2.2002 under this office order No.A-12021/5/98-
Apptt.(pt)/188 dated 25.2.2002.

A copy of letter dated 18.2.2002 is annexed as Annexure R/2
and letter dated 25.2.2002 is annexed as Annexure- R/3.

2. That with regard to paras-2, 3, 4.1 & 4.2. of OA, the respondents beg to offer no comments.
3. That with regard to para – 4.3 of OA, the respondents beg to state the term of appointment in 1991 is purely adhoc and limited for posts applicable and created in connection with 1991 Census only.
4. That with regards to para – 4.4 to 4.6 of OA, the respondents beg to state that the cases of Shri. A.S. Stephen (who subsequently resigned and left this organization) and Smt. Ng. Makan are quite different in as much as they were allowed to continue their services against the posts they were holding as per the direction of the Hon'ble Court. In the present case no posts are available for the continuation of the applicants as the posts of Compilers against which they were re-engaged were abolished w.e.f. 28.2.2002.
5. That with regards to para – 4.6 to 4.9 of OA, the respondents beg to state that the policy of the Govt. of India for filling up all the Group 'C' posts sanctioned for the Census of India, 2001 and the vacancies caused in Group 'C' and 'D' categories due to promotion in higher grades is to fill up either by promotion or on deputation basis in accordance with the provision of recruitment rules. Direct recruitment from open market is not to be made in any case for the above posts. Therefore, the respondents much against their will, had to make a prayer for review of the judgement of the Hon'ble Tribunal and file writ petitions at the Hon'ble High Court. When the writ petitions were dismissed by the Hon'ble High Court on 7.6.2001 the respondents, in full obedience lost no time implementing the decision of the Hon'ble Court and issued orders on 30.7.2001 for the re-engagement of the applicants as Compilers upto 28.2.2002 i.e. the maximum period upto which the posts are available for the Census of India 2001. As the posts of Compiler have not been extended beyond 28.2.2002 the respondents have no option but to issue order of termination of the services of the applicants w.e.f the afternoon of 28.2.2002. The fact that the tenure of re-engagement of the services of the applicants as Compilers is only for a short period i.e. upto

(4)
82

28.2.2002 or till the abolition of the posts whichever is earlier is made sufficiently clear to the applicants at the time of their re-engagement and they have accepted the offer of re-engagement in full agreement of the condition contained in the re-engagement. Now that the posts have been abolished as stipulated in their re-engagement order of 30.7.2001 the applicants cannot claim further extension of their appointment specially when there is no vacancy available for them beyond 28.2.2002.

Copy of Hon'ble High Court's judgement and order dated 7.6.2001 is annexed as Annexure- R/4

The respondents also beg to state that it is incumbent on the part of Govt. of India to abolish posts temporarily created specifically for the conduct of the Census Operations which are considered no longer necessary as economy measures of the Govt. as soon as the census works are completed. As stated in the para 1 above, as the census of India – 2001 has already been completed the Govt. of India considers that the services of the three posts of Compiler are not necessary beyond 28.2.2002 and these posts are therefore abolished w.e.f the afternoon of 28.2.2002 (copy of ORGI's letter No. A.11020/1/99-Ad.II dated 18.2.2002 abolishing the three posts of compilers is enclosed herewith as Annexure- R/5 for favour of kind perusal). The temporary posts for 2001 Census now available with the Directorate of Census Operations, Manipur under ORGI's letter dt.18.2.2002 referred to above is given below:-

1. Statistical Investigator Gr. II	Gr. B	1 Post
2. Assistant	Gr. C	1 Post
3. Confidential Assistant	Gr. B	1 Post
4. Senior Draftsman	Gr. C	1 Post
5. Statistical Investigator Gr. III	Gr. C	2 Posts
6. UDC	Gr. C	2 Posts
7. Daftry	Gr. D	1 Posts

(5)
3

All the above posts have been filled up by promotion from amongst the eligible regular employees of this Directorate as per the guidelines issued by ORGI.

6. That as regards to paras – 4.10 to 4.12 of OA, the respondents beg to state that whereas the Hon'ble Tribunal has directed the respondents to absorb/consider the applicants against the temporary posts to be created in connection with the Census 2001, the Hon'ble High Court, Guwahati has upheld the Hon'ble Tribunal's order with certain modifications. As per directions of the Hon'ble High Court the vacancies in the Census posts are to be offered to all the retrenchedes of the previous Census including the applicants in the order of their seniority. Therefore, as per directions of the Hon'ble High Court, the three applicants who were the senior most retrenched employees in the grade of Computer were re-engaged as Compilers (known as Computer earlier) for period upto 28.2.2001. As stated in earlier paras these posts have been abolished w.e.f. the afternoon of 28.2.2002. In this regard the respondents further beg to submit that the Govt. of India has issued orders banning recruitment for 2001 Census posts from open market. The direction of the Govt. of India is to fill up vacancies only by promotion or by deputation vide R.G's letter No. 12011/4/2000-IV dated 14.2.2000. In pursuance of the directive, the eligible employees of this Directorate were appointed by promotion against the available vacancies. It is further submitted that no appointment has yet been made by this office to fill up the resultant vacant posts of 2001 by deputation from other departments. Therefore, the contention of the applicants that many vacancies have been filled up on deputation is only guess work and without reference to the actual facts. As regards the contention of the applicants for appointment against other available vacancies the respondents beg to state that there is no vacancy available for 2001 Census posts for continuation of the service of the applicant beyond 28.2.2002 as the posts of Compilers have already been abolished.

Copy of letter dated 14.2.2000 is annexed as Annexure-R/6.

As regards the long term vacancies that have fallen vacant due to retirement etc. the respondents beg to point out that the applicants are free to apply for the vacancies in the normal course as per eligibility criteria of the recruitment rules and

(6) 8/3

Govt. orders in force from time to time in which the applicants can duly claim the benefits of permissible relaxation in age etc.

7. With regard to para – 4.13 of OA, the respondents beg to state that as explicit from the various instruction/guidelines and office orders issued by the Registrar General, India and Govt. of India, the creation of temporary and short term posts solely for the completion of the 2001 Census Operations and the method prescribed for filling up these posts are the policy decisions of the Govt. Moreover, this policy decision of the Govt. is issued in consonance with the Govt. of India OM No.- 7(3)/E(Co-ord.)/99 dated 5.8.99. According to this OM dated 5.8.99 the Govt. has imposed ban on creation of plan and Non-plan posts and also ban on filling up vacant posts. This ban in filling up the vacant posts has not yet been lifted. The changes in the policy of the Govt. still in force are fit to be referred to. In this regard a copy of the direction of the Govt. contained in Department of Personnel and Training, Govt. of India letter No. 2.8.2000 PIC dated 16.5.2001 regarding the optimization of direct recruitment to civilian posts is also enclosed herewith for favour of perusal. The respondents have no power to interfere with this policy of the Govt.

Copy of the letter dated 1.2.2000 is Annexure- R/7

Copy of the letter dated 21.2.2000 is Annexure – R/8.

Copy of the letter dated 28.2.2001 is Annexure – R/9

Copy of the letter dated 5.8.1999 is Annexure – R/10

Copy of the letter dated 16.5.2001 is Annexure – R/11.

8. That with regard to para – 4.14 and 4.15 of OA, the respondents beg to state that the existing vacancies lying in this Directorate as on 1.3.2002 are as below :-

1	Statistical Investigator Grade I	Gr. B Gazetted	2 Posts	Vacant due to bifurcation of the post of Investigator under restructuring of Statistical cadre. The post is under purview of the RGI. This is a promotional post
2	Statistical Investigator Grade II	Gr. B	1 Post	Vacant due to retirement. This will be filled up by promotion.
3	Statistical Investigator Grade III	Gr. C	1 Post	Vacant due to retirement. This is a promotional post.
4	Printing Inspector	Gr. C	1 Post	Due to death of incumbent. This is a promotional post.
5	Draftsman	Gr. C	1 Post	Promotion of incumbent to the short term post of 2001 Census.
6	UDC	Gr. C	1 Post	Due to deputation to short term of 2001 Census in other Directorate. This is a promotional post.
7	Junior Stenographer	Gr. C	1 Post	Due to promotion of the incumbent to the resultant vacancy of 2001 Census posts.
8	Asstt. Compiler	Gr. C	3 Posts	Due to promotion of incumbents to the resultant vacancies of 2001 Census posts.
9	LDC	Gr. C	3 Posts	Due to promotion of incumbents to the resultant vacancies of 2001 Census posts.
10	Daftry	Gr. D	1 Post	Due to death of incumbent.
11	Peon	Gr. D	2 Posts	1 (one) post is the resultant vacancy of 2001 Census and 1 (one) is the resultant vacancy of promotion of one incumbent to the higher regular post.

B [✓]
 C [✓]
 D [✓]
 E [✓]
 F [✓]
 G [✓]
 H [✓]
 I [✓]
 J [✓]
 K [✓]
 L [✓]
 M [✓]

Out of the above, vacancies relating to Statistical Investigator Grade I - 2 (two) posts, Statistical Investigator Grade II - 1 (one) post, Statistical Investigator Grade III - 1 (one) post, Printing Inspector - 1 (one) post , Dafty -1 (one) post and Peon - 1(one) post are long term posts.

As regard the other remaining vacancies, it is submitted that the permanent employees of this Directorate have lien in the core posts and these posts should be kept reserved to allow room for their reversion to their original posts when their temporary appointment to the higher 2001 Census post is discontinued on the expiry of the period of sanction of the Census posts.

As regards Census of India 2001 posts, there is no vacancy. Post sanctioned upto 31.1.2003 had already been shown in para – 5 above.

9. That with regard to para – 4.16 of O.A. the respondents beg to state that the re-engagement of the applicants against the post of Compilers of 2001 Census was for the period upto 28.2.2002 as the posts of Compilers were created only upto 28.2.2002. The re-engagement of the services of the three retrenched employees has been terminated from the post of Compilers w.e.f. 28.2.2002 under office order No. A. 12021/5/98-App (pt) dated 25.2.2002 consequent on the abolition of the three 2001 Census posts of Compiler w.e.f. 28.2.2002. These are under the policy of the Govt. and therefore the question of exploitation does not arises. In fact the applicants have been given the maximum benefit of the length of service.
10. That with regard to para – 4.17 if O.A , the respondents beg to state that the vacancy caused by regular eligible employees in a cadre due to promotion against the higher post created for 2001 Census, will be treated as short term post since the promotee will be reverted to the same regular post from which the employee is promoted on the abolition of the post created for 2001 Census. Under the instructions of the Govt., Directorate has been empowered to fill up all short term vacancies of 2001 Census or resultant vacancies in Group 'C' & 'D' only either by promotion or on deputation basis in accordance with the provision of Recruitment Rules. In another directive of the Govt. adhoc appointments have been totally banned from open market against any long term or short term vacancy due to any reason whatsoever. In the provisions contained in ORG's letter No. 1211/4/2000-Ad.IV dated 14.2.2000, para 2 is applicable to

(9)
gk

the departmental promotees only and this para has been misinterpreted by the applicants to suit their convenience.

11. That with regards to para – 4.18 and 4.19 of OA, the respondents beg to offer no comments.
12. That with regards to para – 5.1 of the OA, the respondents beg to state that the direction of Hon'ble High Court Guwahati for re-engagement of the applicants against the 2001 Census posts has been made only for a short period i.e. upto 28.2.2002 as the post of Compilers to which the applicants are entitled was available only upto 28.2.2002. As already stated in the paras the post of Compilers created for 2001 Census has been abolished w.e.f. 28.2.2002.
13. That with regard to para 5.2. to 5.5. of O.A., the respondents beg to state that the claim of the applicants for absorption in long term posts, certain concessions such as relaxation in maximum age limit to the extent of their temporary service rendered before retrenchment, exemption from the sponsorship of Employment Exchange etc. are available under policy of the Govt. of India and the applicants can very well take advantage of these concession in respect of direct recruitment vacancies in various Central Govt. Department subject to the fulfillment of the eligibility criteria prescribed in the recruitment rules. Subject to these conditions there is no objection on the part of the respondents for their application in eligible posts at the time of the direct recruitment of the posts.
14. That with regard to para – 5.6. to 5.9 of O.A., the respondents beg to state that as per the austerity measures of the Govt., there is at present a ban on direct recruitment under Govt. of India O.M. No. – 7(3) E/(Co-ord)/99 dated 5.8.99.
15. That with regard to paras 6 to 9 considering the facts presented the respondents beg to submit that the post of Compiler for 2001 Census has been created by the Govt. of India only for a limited period upto 28.2.2002. As these posts of Compiler have been abolished by the Govt. on the completion of the 2001 Census, this Directorate has now no power and capacity to extend their services beyond 28.2.2002. The creation of temporary and short term posts for the purpose of 2001 Census and the method prescribed for filling them are the policy decision of the Govt. Further the ban imposed by the Govt. under their O.M. No. 7(3)E(Co-ord)/99 dated 5.8.99 on creation of plan and non plan posts has not yet been lifted. There is also

a ban on filling up of vacant posts. Hence the Petitioners can not be accommodated in an manner in this office and therefore, the Petition is liable to be dismissed.

VERIFICATION

And I sign this verification
this 3rd month April
Wednesday Day of 2002 at Jyawahati.

Mr. Dinamani Singh
Declarant

ANNEXURE - 'A'

(11)

ANNEXURE - 'A'

Annexure R/1 i) 2

Annexure R/1 89



गारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIII MANTRALAYA.

कार्यालय जनगणना परिवालन निदेशक, मणिपुर

OFFICE OF THE DIRECTORATE OF CENSUS OPERATIONS,
MANIPUR

सं/No. A. 12021/5/98-App/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 retrenchedes 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) retrenchedes 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

The re-engagement of the above retrenchedes 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.

8/3/m

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

Memo No. A.12021/5/98-App/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.

8/3/m

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

8/3/m
P.C.



Annexure R/2
a
13

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

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

Date: 18.02.2002

To

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

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

Sir,

In pursuance to this office Order No.A-11020/1/99-Ad.II dated 19.1.2000, Order of even no. dated 1.2.2000 and order of even no. dated 28.2.2001 on the above subject, I am directed to convey sanction of the President to the continuation of the under-mentioned temporary posts for the Directorate of Census Operations, Manipur for a further period with effect from 1.3.2002 to 31.1.2003 :-

S.No.	Name of the post	Scale of pay	No. of posts originally sanctioned	No. of posts now sanctioned w.e.f. 1.3.2002 to 31.1.2003	No. of posts abolished from the Directorate
1	2	3	4	5	6
					(5)

1.	Statistical Investigator Grade II	Rs.5,500-9,000	1	1	-
2.	Assistant	Rs.5000-8,000	1	1	-
3.	Confidential Assistant	Rs.5,500-9000	1	1	-
4.	Senior Draftsman	Rs.5,500-9,000	1	1	-
5.	Statistical Investigator Grade III.	Rs.5,000-8,000	2	2	-
6.	Compiler	Rs.4,000-6,000	3	-	3
7.	UDC	Rs.4,000-6,000	2	2	-
8.	Draftsman	Rs.2,610-3,540	1	1	-
		Total	12	9	3

1. The expenditure involved is non-plan and is debitible to the Major Head 3454-Census, Surveys & Statistics; 01-Census;800.02 - Abstraction and Compilation; 800.02.00.01-Salaries for the year 2002-2003.

2. This has the concurrence of the Ministry of Finance, Department of Expenditure's I.D No. 16(31)/E.II.A/99 dated 12.1.2000 and IFD (Home)'s Diary No. 229/FA(H) 2000 dated 12.1.2000.

Yours faithfully,

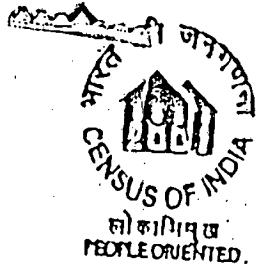
(D.S. SAINI)
UNDER SECRETARY

No.A:11020/1/99-Ad.ll
Copy forwarded to :-

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

(D.S. SAINI)
UNDER SECRETARY

6



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

सं०/No. A. 1202 1/5/98-App'tt(Pt) // 5

Yumnam Leikai.

इंप्राल-795001

Imphal-795001

February 25, 2002

OFFICE ORDER

The services of the following persons who were engaged as Compilers under this office Order No.A.12021/5/98-Apptt(Pt) dated 30-7-2001 for a period upto 28-2-2002 or till the abolition of the posts whichever is earlier, are hereby terminated w.e.f. 28-2-2002(after noon) consequent on the abolition of the 2001-Census post of Compilers (three posts) vide ORG's Ref No.A.11020/1/99-Ad.II dated 18-2-2002 :-

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

(S. Birendra Singh)
ASSISTANT DIRECTOR

No.A.12021/5/98-App/ (Pt) /
Copy to :-

Imphal, the 25th Feb.2002

- (1) All concerned for information
- (2) The Jt. Registrar General, India
2A, Mansingh Road, New Delhi-110011
- (3) The Pay & Accounts Officer(Census),
AGCW & M Building, I.P. Estate.
New Delhi-110002
- (4) The HC/Asstt. of this office for information
and necessary action.
- (5) Other relevant files.

1. Smt. U. Kavita Nautiyal (S. Birendra Singh)
ASSISTANT DIRECTOR

ASSISTANT DIRECTOR

17. *Silvia* (Hedemora) *Prasina* (L.)

27

IN THE GAUHATI HIGH COURT

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

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

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

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

.... Petitioners.

-Versus-

Oinam Indramani Singh,
Imphal, Manipur.

.... Respondent.

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

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

.... Petitioners

-Versus-

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

.... Respondent.

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

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

... Petitioners.

-Versus-

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

.... Respondent.

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

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

... Petitioners

-Versus-

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

.... Respondent

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

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

... Petitioners.

-Versus.-

..... 2

Attested
M. D. S.
Advocate.

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

.... Respondent.

(6) In WP(C) No. 2536/2001 :-

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

.... Petitioners.

-Versus-

Th. Basanta Singh,
of Bishnupur, Imphal.

.... Respondent.

(7) In WP(C) No. 2537/2001 :-

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

.... Petitioners

-Versus-

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

.... Respondent.

PRESENT :

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

THE HON'BLE MR. JUSTICE D. BISWAS

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

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

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

JUDGMENT AND ORDER (ORAL)

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

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

....

3

Attested
R.S. Mongia
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. Ammenden 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

Attested
S. Sarma
Advocate.

-15-

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. Ammenden 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."

19
9X

Arrested
S. S. S.
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 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

Witnessed
by
Advocates

- 6 -

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 ^{Acting} ~~Acting~~ ^{Constituency} ⁿ be given to the counsel for the parties.

Attestation
Mr. ^{Advocate}



लोकाभियुक्ति
PEOPLE ORIENTED

Annexure R/5
Annexure R/5
100 (22)

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

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

Date: 18.02.2002

To

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

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

Sir,

In pursuance to this office Order No.A-11020/1/99-Ad.II dated 19.1.2000, Order of even no. dated 1.2.2000 and order of even no. dated 28.2.2001 on the above subject, I am directed to convey sanction of the President to the continuation of the under-mentioned temporary posts for the Directorate of Census Operations, Manipur for a further period with effect from 1.3.2002 to 31.1.2003 :-

S.No.	Name of the post	Scale of pay	No. of posts originally sanctioned	No. of posts now sanctioned w.e.f. 1.3.2002 to 31.1.2003	No. of posts abolished from the Directorate
1	2	3	4	5	6

(5)

1.	Statistical Investigator Grade II	Rs.5,500-9,000	1	1	-
2.	Assistant	Rs.5000-8,000	1	1	-
3.	Confidential Assistant	Rs.5,500-9000	1	1	-
4.	Senior Draftsman	Rs.5,500-9,000	1	1	-
5.	Statistical Investigator Grade III	Rs.5,000-8,000	2	2	-
6.	Compiler	Rs.4,000-6,000	3	-	3
7.	UDC	Rs.4,000-6,000	2	2	-
8.	Drafty	Rs.2,610-3,540	1	1	-
		Total	12	9	3

1. The expenditure involved is non-plan and is debitible to the Major Head 3454-Census, Surveys & Statistics; 01-Census;800.02 - Abstraction and Compilation; 800.02.00.01-Salaries for the year 2002-2003.

2. This has the concurrence of the Ministry of Finance, Department of Expenditure's I.D No. 16(31)/E.II.A/99 dated 12.1.2000 and IFD (Home)'s Diary No. 229/FA(H) 2000 dated 12.1.2000.

Yours faithfully,

Dear Sir/Madam,

(D.S. SAINI)
UNDER SECRETARY

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


(D.S. SAINI)
UNDER SECRETARY

6

भ्रत : "जनगणना"

ठाराम : "REGGENLIND"

Annexure - R6

Annexure R6

सं. No. 12011/4/2000-Ad.IV

• सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक 2/A, Mansingh 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

25
103

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,

Mahawal Singh

(M. R. Singh)

Under Secretary to the Govt. of India

Annexure R/7 Annexure-R/7

MR
Telegram

ND"

104 (26)

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

गारत सरकार
GOVERNMENT OF INDIA

पूर मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

गारत के महा रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

2/A, MANSINGH ROAD,

नई दिल्ली, बिनाप 1.2.2000
New Delhi, the

To

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

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

Sir,

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

Sl.No.	Name of the post	Scale of pay	No. of posts created
1	2	3	4
1.	Investigator	Rs. 5,500-9,000	1
2.	Accountant	Rs. 5,500-9,000	1
3.	Confidential Asstt.	Rs. 5,500-9,000	1
4.	Sr. Artist	Rs. 5,000-8,000	1
5.	Statistical Asstt.	Rs. 4,500-7,000	2

contd...

Ad.8
P.S. 16/12/2000
No. 1612/2000

6.	Computer	Rs. 4,000-6,000	3
7.	UDC	Rs. 4,000-6,000	2
8.	Daftry	Rs. 2,610-3,540	1
		Total :	12

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

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

Yours faithfully,

B.P. Jain
(B.P. JAIN)
DEPUTY DIRECTOR

No. A.11020/1/99-Ad.11

New Delhi, the

Copy forwarded to :-

1. Director of Census Operations, Manipur.
2. JRG(I).
3. Consultant.
4. US(Ad.11)/DD(Ad.111)/US(Ad.1V).
5. Accounts Officer, RG's Office.
6. PS to RGI.
7. Order file.

B.P. Jain
(B.P. JAIN)
DEPUTY DIRECTOR

(2)

राज्यपाल द्वारा नियंत्रित निदेशक, पणिपुर
"REGGENDLIND" निदेशक, पणिपुर
Director Census Operations, Manipur
Receipt No. 106
Date 29.12.2000
भारत के महा रजिस्ट्रार का कार्यालय
MINISTRY OF HOME AFFAIRS/GRIII MANTRALAYA
OFFICE OF THE REGISTRAR GENERAL, INDIA

Annexure/8 Annexure-8/8

नई दिल्ली, दिनांक

New Delhi, the 21.2.2000

To

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

Subject: Census of India - 2001 - Creation of temporary posts
in the headquarters of ORGI as well as in the headquarters
of the Directorate of Census Operations.

CORRIGENDUM

In partial modification of this office letters of even
number dated 1.2.2000 and 19.1.2000 regarding sanction order for
the creation of the posts for the strengthening of the
headquarters office of the DCOs and ORGI, the following
amendments/modifications are hereby made for necessary action:

1. For Research Officer read as Research Officer (Map)

For the pay scale of Senior Drawing Assistant read
Rs.6500/-10500/- instead of Rs.5500/-9000/-

3. For Accountant in the pay scale of Rs.5500/-9000/-
read as Assistant in the pay scale of Rs.5000/-8000/-

(B.P. Jain)
Deputy Director

Copy to:

1. All DCOs (except Nagaland, A&N Islands and Lakshadweep)
2. JRG(I)
3. Consultant
4. DD(Ad.II)/US(Ad.II)/US(Ad.IV)
5. Accounts Officer, RG's Office
6. PS to RGI
7. Order file

35

(B.P. Jain)
Deputy Director



Annexure R-9

Annexure R-9 Annexure R-9

29

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

✓ ✓

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

Date: 28.02.01

To

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

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

Sir,

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

S.No.	Name of the post	Scale of pay	No. of posts
1	2	3	4
1.	Statistical Investigator Gr.II	Rs.5,500-9,000	1 ✓
2.	Accountant	Rs.5,500-9,000	1 ✓
3.	Confidential Assistant	Rs.5,500-9000	1 ✓
4.	@Senior Artist	Rs.5,000-8,000	1 ✓
5.	Statistical Investigator Gr.III	Rs.5,000-8,000	2 ✓
6.	Compiler	Rs.4,000-6,000	3 - 3
7.	UDC	Rs.4,000-6,000	2 ✓
8.	Dastry	Rs.2,610-3,540	1 ✓
		Total	12

3

30
108
108
CENSUS

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

1. The expenditure involved is non-plan and is debitable to the Major Head 3454-Census, Surveys & Statistics; 01-Census;800.02 - Abstraction and Compilation; 800.02.00.01-Salaries for the years 1999-2000,2000-2001 and 2001-2002.
2. This issue with the concurrence of IFD (Home) vide U.O. No. 229/FA(H) 2000 dated 12.1.2000.

Yours faithfully,


(D. S. Saini)
Under Secretary

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

New Delhi, the 28.02.2001

Copy forwarded to :-

28/2

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




(D. S. Saini)
Under Secretary

Ad-2

Pl. 7860

No 215

28/2/2001

4

No. 7(3)/E(Coord)/99
Government of India
Ministry of Finance
Department of Expenditure

Office of the Secy./Min. of the Government of India
17/08/1999
1723/99

New Delhi, 5th August, 1999

~~Annex-R-10~~

Office Memorandum

for example - R/10

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

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

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

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

(2) Ban on filling up of vacant posts

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

(3) 10% cut in posts

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

(4) Purchase of new vehicles

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

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

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

~~Indicates
if & may
be an
animal
Daphnia
and
palea, D.~~

2) $\frac{d}{dx} (x^2)$

131819

13/8/87 (L: 1)

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

(6) Foreign Travel

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

(7) New expenditure proposals

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

(8) Expenditure on existing schemes/programmes

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

2. All existing instructions on austerity/economy in expenditure issued by the Ministry of Finance(Department of Expenditure) from time to time shall be strictly enforced.
3. Secretaries to the Govt. of India and Financial Advisers are requested to ensure strict compliance of the above instructions.

Chennai
(C.M. Vasudev)
Secretary to the Govt. of India

To,

All Secretaries to the Govt. of India(By name)

All Heads of Public Sector Enterprises

All FAs(By name)

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

μνα

R-365/25-21
28/5/2001

Fracture - R/11 (33)

1793 (PRA 00) 2.57

2875

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

New Delhi, the 16 May, 2001.

OFFICE MEMORANDUM

Subject: Optimisation of direct recruitment to civilian posts. ****

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

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

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

Contd /---

~~Vogent~~

5.01

5.01 AFAC (Fin II) G1, pre written
by 28/5/

Ward

112 ✓

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

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

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

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

3. The other modes of recruitment (including that of 'promotion') prescribed in the Recruitment Rules/Service Rules would, however, continue to be adhered to as per the provisions of the notified Recruitment Rules/Service Rules.
4. The provisions of this Office Memorandum would be applicable to all Central Government Ministries/Departments/organisations including Ministry of Railways, Department of Posts, Department of Telecom, autonomous bodies – wholly or partly financed by the Government, statutory corporations/bodies, civilians in Defence and non-combatised posts in Para Military Forces.
5. All Ministries/Departments are requested to circulate the orders to their attached and subordinate offices, autonomous bodies, etc. under their administrative control. Secretaries of administrative Ministries/Departments may ensure that action based on these orders is taken immediately.
6. Hindi version will follow.

Harinder Singh
 (Harinder Singh)
 Joint Secretary to the Govt. of India

To,

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