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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No. 69/02.....

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SECTION OFFICER (Judl.)

Charlis
22/11/17

FORM NO. 4

(See Rule 42)

CENTRAL ADMINISTRATIVE TRIBUNAL, : GUWAHATI BENCH.
GUWAHATI.

ORDER SHEET

Original No. 69/2002Misc. Petition No. 1Contempt Petition No. 1Review Application No. 1Applicant(s) T. C. KalitaRespondent(s) U.O.I & OMs.Advocate for Applicant(s) M. Chanda, Mrs. N.D. GoswamiG.N. ChakrabartyAdvocate for Respondent(s) C.G.S.C. K.N. Chaudhury, P. Chaudhury & C.Das
for Respondt. Nos. 2 to 6.

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
	1.3.02	Heard Mr. M.Chanda, learned counsel for the applicant.
69788.50	28.11.2001	Issue notice to show cause as to why the application shall not be admitted.
Excess money deposited for Regt. v/s R/No 597 Adt 4/3/02. Notice X-ferred and sent to D/Ls for fixing the hearing date No 1/106 by Regt AD.		Also, issue notice to show cause as to why the interim order as prayed for shall not be granted. Returnable by two weeks.
		List on 19.3.2002 for admission.
	mb	<u>U.C. Chakrabarty</u> Member
D/No. 739 & 744 Dtd - 6/3/02	19.3.02	Heard Mr.J.L. Sarkar, learned counsel for the applicant and also Mr. A.Deb Roy, learned Sr. C.G.S.C. for the Respondents.
① Service report are still awaited		The application is admitted. Call for the records.
		Mr. J.L.Sarkar, learned counsel for the applicant prayed for an interim order
	18.3.02	

Contd/-

Notice duly served
on Respondent No.1
4, 5 & 6

20/3/02

19.3.02

Order dttd 19/3/02
communicated to
the parties concerned.

22/3/02

No written statement
has been filed.

22.4.02

(2) directing the Respondents to allow
the applicant to continue in service.
He also submitted that the purported
order of termination is patently
unlawful and therefore the same
requires to be set aside.

Considering the facts of the case
I am of the view that the matter
requires to be decided on merits inst-
ead of passing any interim order at
this stage. It is made clear that
any appointment shall be subject to
the outcome of this application.

Mr. A. Deb Roy, learned Sr.
C.G.S.C. accepts notice on behalf of
the Respondents. Respondents are
directed to submit its written state-
ment within three weeks from today.

List on 23.4.2002 for order.

Vice-Chairman

mb

23.4.2002

Mr. Indraneel Choudhury,

No written statement
has been filed.

3.5.02

Learned
counsel stated that he has entered
appearance on behalf of the respondent
Nos. 2 to 6. He also stated that the
respondents are filing written statement
and prayed that this case may also be
listed for hearing alongwith the like
cases which are already fixed for hearing
on 6.5.2002.

List the case on 6.5.2002 alongwith
the like cases accordingly.

3.5.2002

W/S submitted
by the Respondents.

bb

Vice-Chairman

(3)

3

O.A. No. 69/2002

Notes of the Registry	Date	Order of the Tribunal
	6.5.02	Adjourned on the prayer of learned counsel for the parties. List on 27/5/2002 for hearing.
23.5.2002 Reply brief submitted by the applicant in reply to the W.P.	27.5	There is no division bench today. The case is adjourned to 20.6.2002. M.C. 2002
Notes of the Registry	20.6.02	The learned counsel appearing on behalf of the respondents prays for sometime to obtain necessary instructions. Dr. M. Pathak, learned counsel appearing on behalf of the applicant. Mr. M. Chanda learned counsel for the applicant submits that they will file Misc. Petition praying for direction from this Bench not to fill up the post against the interview conducted by the respondents as the applicant may be prejudiced. Mr. I. Choudhury, learned counsel for the respondents stated that the case

O.A.69 of 2002

Notes of the Registry X Date

Order of the Tribunal

20.6.02

Mr. I. Choudhury learned counsel appearing on behalf of the respondents prays for sometime to obtain necessary instructions. Dr. M. Pathak and Mr. M. Chanda learned counsels appearing on behalf of the applicant submits that they have filed Misc. Petition praying for direction from this Bench not to fill up the post against the interview conducted by the respondents as the applicant may be prejudiced. Mr. I. Choudhury, learned counsel for the respondents stated that the case may be posted for hearing. In the meantime, the post shall not be filled up. List on 26.6.02 for hearing.

Member

Vice-Chairman

lm

26.6.2002

List the case again on 17.7.2002 to enable the respondents to obtain necessary instruction in the matter.

Member

Vice-Chairman

bb

17.7.02

List the matter on 5.8.2002 for hearing alongwith O.A. 62/2002.

Member

Vice-Chairman

mb

5/8

Heard Mr. T. K. Sarker, learned Counsel for the applicant & Mr. K. N. Choudhury learned Counsel for the respondents.
Hearing Concluded
Judgment reserved.

Prs

Ab. Jaz

578

69/2002

Notes of the Registry } Date Order of the Tribunal

19.8.02

Judgment delivered in open Court,
kept in separate sheets. The application
is allowed in terms of the order. With cost
of Rs.1000/- to be paid to the applicant.

Member

Vice-Chairman

mb

4
6
O.A.69 of 2002

Notes of the Registry Date

20.6.02

Order of the Tribunal

Mr. I. Choudhury learned counsel appearing on behalf of the respondents, prays for sometime to obtain necessary instructions. Dr. M. Pathak and Mr. M. Chanda learned counsels appearing on behalf of the applicant submits that they have filed Misc. Petition praying for direction from this Bench not to fill up the post against the interview conducted by the respondents as the applicant may be prejudiced. Mr. I. Choudhury, learned counsel for the respondents stated that the case may be posted for hearing. In the meantime, the post shall not be filled up till 26.6.2002. List on 26.6.02 for hearing.

K. U. Shar
Member

Vice-Chairman

lm

26.6.2002

List the case again on 17.8.2002 to enable the respondents to obtain necessary instruction in the matter.

K. U. Shar
Member

Vice-Chairman

bb

17.7.02

List the matter on 5.8.2002 for hearing alongwith O.A. 62/2002.

K. U. Shar
Member

Vice-Chairman

mb

3/8

Heard Mr. J. K. Sarker, learned Counsel for the applicant & Mr. K. N. Mandhury, learned Counsel for the respondent,
Hearing Concluded,
Judgment reserved.

M/s
A. K. Jena

69/2002

Notes of the Registry Date

Order of the Tribunal

19.8.02

Judgment delivered in open Court,
kept in separate sheets. The application
is allowed in terms of the order with cost
of Rs.1000/- to be paid to the applicant.

Judgment of 19/8/02
Commenced

b
329.

I C (Chairman)

Member


Vice-Chairman

mb

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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. Banthia, 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. Banthia, 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 RCHOWDHURY. 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:

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"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

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.

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 retrenchedes according to length of service. The person with longer length of service in a particular category was to be offered job first than other retrenchedes. After exhausting the retrenchedes, 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 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.....

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 emend 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:

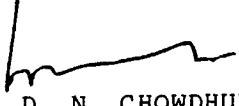
"It has been suggested by the chief education officer that, if an injunction is granted, chaos will supervene. All the arrangements have been made for the next term, the teachers appointed to the new comprehensive schools, the pupils allotted their places and so forth. It would be next to impossible, 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.

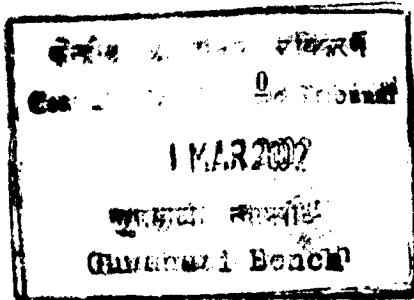
19. For all the reasons stated above we set aside the orders dated 28.2.2002 passed by the respondents in the above O.A.s and direct the concerned authority to take appropriate measure to absorb the applicants including the other retrenched employees as per the direction of the High Court expeditiously 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)
VICE-CHAIRMAN

nkm



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

(An Application under Section 19 of the Administrative Tribunal Act, 1985)

Title of the Case : O.A. No. 69.../ 2000
 Sri Tara Charan Kalita: Applicants
 -Versus-
 Union of India & Ors. : Respondents

I N D E X

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6.	4	Circular dated 14.2.2002	19
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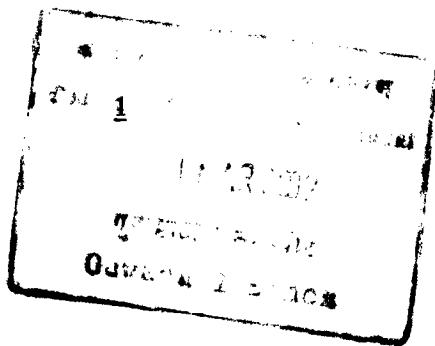
Date : 1.3.2000

Filed by

Sujitkash

Advocate

Sri Tara Charan Kalita,



27

filed by Sri Tara Charan Kalita
..... applicant
Through Jayashree
Advocate 3.3.2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

An Application under Section 19 of the Administrative Tribunals Act,
1985).

O.A. No. 69/2002

BETWEEN

1. Shri Tara Charan Kalita
Son of Sri Samudra Kalita
Resident of village No. 1 Jiakur
P.O. Kukurmara,
District- Kamrup, Assam.

..... Applicant

-AND-

1. Union of India
Through the Secretary to the
Government of India, Ministry
of Home Affairs,
New Delhi.

2. Registrar General of Census Operations,
2/A, Man Singh Road.
New Delhi.
Sri J.K.Banthia.

3. Registrar General of Census Operations,
2/A, Man Singh Road.

Shri Tara Charan Kalita

New Delhi.

4. Director of Census Operations,
Assam, G.S.Road,
Guwahati.

5. Deputy Director of Census Operations,
Assam, G.S.Road,
Guwahati.

6. Sri N.C.Sen,
Deputy Director of Census Operations,
Assam, G.S.Road,
Guwahati.

..... Respondents

DETAILS OF APPLICATION

1. Particulars of orders against which this application is made.

This application is made against the impugned order of termination of the applicant Sri Bimalananda Das & Ors.) from service issued by the Deputy Director of Census Operation vde letter dated 28.2.2002, in total violation of Judgment and Order dated 6.2.2002 passed in O.A. No. 142/2000 and praying for direction upon the respondents to absorb the applicant in service on regular basis in terms of the direction passed in O.A. 142 of 2000 and also for a further direction to the respondents to allow the applicant to continue in service till the process of regular absorption is completed.

2. Jurisdiction

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



3. Limitation

The application further declare that this application is filed within the prescribed period of limitation as per Administrative Tribunals Act, 1985.

4. Facts of the Case

That the applicant is a citizen of India and as such he is entitled to all the rights and privileges as guaranteed under the Constitution of India.

That the fact of the case traces back to the year 1991 when the applicant was appointed as casual worker under the disposal of the Respondents No.3. Thereafter in the same year he was temporarily appointed to the post of Assistant Compiler, however during the year 1993 the applicant appeared in the interview against the post of Computer created for the census work of 1991 and declared selected in the said interview and consequent thereupon he was appointed to the post of Computer. It is relevant to mention here that the applicant is a graduate in arts. However, the services of the applicant was terminated along with other similarly situated temporary employees in the year 1993. Being aggrieved by the said order of termination the applicant along with other similarly situated employees approached the Hon'ble Tribunal through O.A. No.269 of 1993.

That the applicant having been so appointed, continued to work in the department under the disposal of Respondent No.3. But on 21.2.1993, the then Respondent No. 3 issued a letter whereby the services of the applicants stood terminated w.e.f. 31.12.93. The applicant thereupon along with others challenged the said order dated 21.12.93 in O.A No. 269/93 before this Hon'ble Tribunal. The Hon'ble Tribunal after a threadbare consideration of the matter disposed of the Original Application vide order dated 5.6.98 holding that there was no reason to interfere with the order dated



21.12.93 and the same could not be quashed therefore following the judgment of the Hon'ble Supreme Court in Union of India Vs. Dinesh Kumar Saxena, reported in (1995) 2 ATC 585. The Tribunal however held that the respondents No3 would take action to appoint the applicant in any regular vacancy which might arise in near future if the applicant were otherwise qualified and eligible for those posts and in that event the applicants might individually approach respondents No.3.

4.4 That the applicant begs to state that thereafter the respondents following the various decisions of the Hon'ble Tribunal and Hon'ble Gauhati High Court passed in the case of similarly situated retrenched employees appointed the applicant to the post of Computer in the month of August, 2001 vide letter No.DCO(E)126/2001 dated 10.8.2001 and the applicant accordingly joined to the post of Computer after accepting the offer of appointment issued under letter No. DCO(E)126/2001/12179. In the said order it is stated that the post against which the applicant is appointed created in connection with 2001 census and is likely to be discontinued/abolished on or before 28.2.2002.

A copy of the letter dated 17.8.2001 and 10.8.2001 are annexed as **Annexure-1 and 2** respectively.

4.5 That it is stated that the similarly situated employees namely Sri Bimalanda Das & Ors. approached the Hon'ble Tribunal through O.A. No. 142/2000 and this Hon'ble Tribunal after hearing the parties was pleased to direct the respondents to absorb those applicants and other similarly situated employees in service on the basis of their length of service in a particular category against the existing available vacancies, till absorption of the retrenched employees is over. Moreover, the circular dated 14.2.2000 issued by the Registrar General India also directed that the employees who are recruited for 2001 Census vacancies should be absorbed



against the long term vacancies, as such the applicant is entitled to be considered for regular absorption in terms of the judgment and order dated 6.2.2002 passed in O.A. No. 142/2000 and also in terms of circular dated 14.2.2000.

Copy of the judgment and order dt. 6.2.2002 and the circular dated 14.2.2000 are annexed as **Annexure 3 & 4.**

4.6 That most surprisingly, the respondents issued vide impugned order No. DCO(E)50/99/Pt.I/2054, dated 28.2.2002 terminating the service of the applicants with effect from 1.3.2001 on the alleged ground of discontinuation of sanction of the posts. It is further stated in the aforesaid impugned orders that the case for further continuation in service of the applicant in terms of the order 6.2.2002 passed in O.A. No. 142/2000 has been considered but due to discontinuation of sanction of higher posts and consequent reversion of the incumbents to the post the applicants could not be accommodated and therefore their services have been discontinued with effect from the afternoon of 28.2.2002. This decision of the respondents is highly arbitrary and the same has been passed without application of mind and also without looking into the direction passed by the Hon'ble Tribunal in O.A. 142/2000 on 6.2.2002. It is quite clear from the judgment and order dated 6.3.2002 that the direction was given by this Hon'ble Tribunal to the respondents to regularise the services of the applicants in the existing suitable regular vacancies. Be it stated that although the applicant was not a party to the O.A. No. 142/2000 but the applicant is covered by the said judgment as because the said judgment is a judgment in rem. As such the direction of the Hon'ble Tribunal is misunderstood and the same appears to have been wrongly implemented by the respondents. The cases of the present applicant has no bearing with the discontinuation of sanction of temporary posts created for the purpose of 2001 census. As such the termination of the services of the applicant from service on the pretext that sanction has been discontinued



for 2001 census is contrary to the order/direction contained in the judgment and order of the Hon'ble Tribunal dated 6.2.2002. As such the impugned orders dated 28.2.2002 are liable to be set aside and quashed.

Copy of the impugned order dated 28.2.2002 are annexed as **Annexure-5**.

4.7 That it is stated that the present respondents have filled up certain temporary posts of Computer, Assistant Compiler, L.D.C., etc. on deputation basis from State Fed which were alleged to have been created/sanctioned for 2001 census and which were circulated vide circular No. DCO(E)50/99/2172 dated 23/24.2.2000, but the services of those deputationists has been allowed to continue till date and no order of repatriation has been passed on the plea of discontinuation of sanction. As such the action of the respondents are highly arbitrary, unfair and illegal as the impugned orders of termination are liable to set aside and quashed.

4.8 That it is stated that a similar case is pending before this Hon'ble Tribunal which is registered O.A. 62 of 2002 (Smt. U. Kamila & Ors. Vs. U.O.I. & Ors.). In the said case Hon'ble Tribunal was pleased to protect the right of the similarly situated applicants who apprehended termination from service by passing an appropriate interim order on 26.2.2002. In the instant case the applicants are similarly situated therefore Hon'ble Tribunal be pleased to protect the valuable right and interest of the applicants by way of granting an interim order staying the operation of the impugned order dated 28.2.2002.

A copy of the order of the Hon'ble Tribunal referred to above is annexed as **Annexure-6**.

4.11 That your applicants beg to state that in terms of the circular dated 14.2.2001 issued by the Registrar General India, the applicant is also entitled to be absorbed on regular basis against the long term vacancies.



4.12 That this application is made bona fide and for the cause of justice.

5. Grounds for relief(s) with legal provisions.

5.1 For that the impugned order of termination has been issued in total violation of the Hon'ble Tribunal Order dated 6.2.2002 passed in O.A. No.142/2000.

5.2 For that the cases of the applicant has not been considered by the respondents for regularisation of services in spite of the direction passed by the Hon'ble Tribunal in its judgment and order dated 6.2.2002 in O.A. No. 142/2000.

5.3 For that discontinuation of sanction for 2001 census has no relevancy in the instant case of the applicant, after the judgment and order dated 6.2.2002 referred to above.

5.4 For that the applicant has acquired a valuable right to regular appointment on priority basis under the respondents against the existing vacancies in terms of the judgment and order of the Hon'ble Tribunal referred to above.

5.5 For that permanent suitable vacancies of Assistant compiler, Computer (now redesignated as Compiler) Data Entry operator, L.D.C. etc. are lying vacant in the regular establishment in the office of the Director, Census Operations, Assam, which would be evident from letter dated 9th April, 2001. As such the applicant is entitled to be absorbed in service.

5.6 For that, the respondents particularly respondent No.5, Deputy Director, acted arbitrarily and illegally in not considering the case of the applicant for regularisation in services in spite of



the direction contained in the judgment and order of the Hon'ble Tribunal on 6.2.2002 in O.A. No. 142 of 2002.

5.7 For that the applicant could easily be accommodated against the available regular vacant posts and there is no reasonable impediment on the part of the respondents in doing so.

5.8 For that the impugned order dated 28.2.2002 have been alleged to have passed after consideration of the case of the applicant in terms of the order dated 6.2.2002 is not correct and the impugned order has been issued in a very clever manner to avoid the implementation of the order dated 6.2.2002 passed in O.A. No. 142/2000.

5.9 For that the applicant is entitled to be absorbed on regular basis in terms of circular dated 14.2.2001 against the long term vacancies issued by the Registrar General of India, New Delhi.

5.10 For that other similarly situated employees recruited on deputation basis from the department stood fed absolutely for 2001 census operations, Assam has been retained in service even after expiry of sanction, as such the action of the respondents terminating the services of the applicant in spite of the direction of the Hon'ble Tribunal for regularisation of their services passed in O.A. No. 142/2000 dated 6.2.2002 is violative of article 14 of the constitution.

6. Details of Remedies Exhausted

The applicants stated that they have no other alternative and other efficacious remedy than to prefer this application before the Hon'ble Tribunal.



v. Matter not previously filed or pending with any other Court/Tribunal.

The applicant further declare that he has filed O.A. No. 269/93 the said O.A. was disposed of with a direction to consider the claim of the applicant on priority basis for regular absorption but his case has not been considered. The applicant further declares that no writ petition or suit regarding the matter in respect of which this application has been made is pending before any Court or Tribunal.

vi. Reliefs sought for :

Under the facts and circumstances of the Case, the applicants pray for the following reliefs :

- 8.1 That the impugned order of termination from service issued under No. circular issued under letter Nos. DCD(E)50/99/Pt.I/2054, (Annexure-3) be set aside and quashed.
- 8.2 That the respondents be directed to regularise or absorb the applicant in service against any of the existing long term/permanent available permanent vacancies of Computer, Lower Division Clerk, Assistant Compiler, Data Entry Operator, Proof Reader etc. in terms of the judgment and order dated 6.2.2002 passed in O.A. Nos. 142/2000.
- 8.3 That the respondents be directed to allow the applicant to continue in service in the existing capacity till the process of regular absorption is completed.
- 8.4 Costs of the Application.
- 8.5 Any other relief or reliefs to which the applicants are entitled under the facts and circumstances of the case as deemed fit and proper by the Hon'ble Tribunal.



9. Interim Relief prayed for :

9.1 That the Hon'ble Tribunal be pleased to stay the operation of the impugned orders issued under Nos. DCO(E)50/99/Pt.I/2033, DCO(E)50/99/Pt.I/2019, DCO(E)50/99/Pt.I/2026, dated 28.2.2002 (Annexure-3 series) be stayed till disposal of this application and further be pleased to direct the respondents to allow the applicants to continue in service till disposal of this application.

9.2 Any other reliefs to which the applicants are entitled to under the facts and circumstances stated in paragraph 4 of this application.

10. *****

This application has been filed through advocate.

11. Particulars of the I.P.O.

I.P.O. No. : 6978885D
Date of Issue : 28/11/2001
Issued from : G.P.O., Guwahati.
Payable at : G.P.O., Guwahati.

12. List of enclosures : As stated on the Index.



VERIFICATION

I, Shri Tara Charan Kalita, Son of Sri Samudra Kalita, aged about 34 years, resident of village Bhathijiakur, P.O. Kukurmara, Distirct Kamrup, applicant in the instant application do hereby declare that the statements made in paragraph 1 to 4 and 6 to 12 are true to my knowledge and those made in paragraph 5 are true to My legal advice which I believe to be true. I have not suppressed any material fact.

And I sign this verification on this the 1st day of March, 2002.



Signature



- 12 -

ANNEXURE-1

under Certificate of Posting.

फोन } Director : 547396/456630(O).
Phone } : 266326(R)
Off. supdt. : 526954
Fax : 0361-547396

No. DCO(E) 126/2001/12179
भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA

कार्यालय असम जनगणना निदेशक

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM

जि. एस. रोड. उलुबारी, गुवाहाटी - 781007

G.S. ROAD, ULUBARI, GUWAHATI - 781007

दिनांक गुवाहाटी

Dated Guwahati

17.08.2001.

OFFICE ORDER

In compliance of the Hon'ble Central Administrative Tribunal's order dated 28.11.2000 and dated 16.1.2001 in OA No. 342/2000 and No. 385/2000 respectively read with Hon'ble High Court's Judgement in WP(C) No 978/2001 & 979/2001 dt. 5.3.2001 and WP(c) 2531/2001 to 2537/2001 dt. 7.6.2001 Shri Taracharan Kalita is hereby reengaged in the o/o the D.C.O., Assam, Guwahati as Computer (now designated as Compiler) against a purely temporary post created for a short term in connection with Census 2001 on purely temporary and ad-hoc basis upto 28.2.2002 or upto the date on which the sanction of the post expires, whichever is earlier, in the pay scale of Rs. 4000-100-6000/- p.m. plus other allowances as admissible from time to time.

The re-engagement will not bestow upon him any right for regularisation in the post in which he is re-engaged and his services shall be terminated at any time without assigning any reason thereof.

The post is created to attend to the additional works of 2001 Census and is likely to be discontinued / abolished on or before 28.2.2002. The services of Shri Taracharan Kalita will be disengaged on the discontinuation of the sanction of this temporary post created for 2001 Census and the Government will have no liability thereafter.

Shri Taracharan Kalita is to join immediately.

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

Certified to be true copy

Sanjit Singh
Advocate

contd....2.

- 2 -

Memo No. DCO(E)126/2001/ 12180-86,

dt. 17.08.2001.

Copy to :-

1. The Registrar General, India, 2/A Mansingh Road, New Delhi - 110011.
2. The Pay & Accounts Officer (Census), AGCW & M Building, New Delhi - 2.
3. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
4. Shri A. Deb Roy, Sr. CGSC, CAT, Guwahati.
5. The Office Supdt. (Estt. & Accounts).
6. Shri Taracharan Kalita, Vill - Bleya Jorhat, P.O. Kukurmara, Dist - Kamrup.
7. File No. DCO(E)285/93/pt.3

S Baruah
17/8/2001

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

NO.DCO(E)126/2001/
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS : ASSAM: GUWAHATI

Dated Guwahati the 10/11/2001.

Offer of Reengagement

In compliance with the Honourable Central Administrative Tribunal's order of judgement In O.A.No.342/2000 dated 28.11.2000 and O.A. No.385/2000 dt.16.1.2001 read with the Honourable Guwahati high Court's judgement In W.P.C. No.978/2001, 979/2001 dt.5.3.2001 and No.2531/2001 to 2537/2001 dt.6.5.2001, Shri/Smt. Tarak Chandra Kalita (now designated as Compiler) created for 2001 census in the scale of pay of Rs.4000-100- 6000/- and other allowances as admissible from time to time on a purely temporary and adhoc basis upto 28.2.2002 or upto such time the sanction of post continues, whichever is earlier, under the following terms and conditions.

Terms and Conditions

1. This reengagement will not bestow upon him/her any right for regularisation in the post in which he/she is reengaged and his/her services shall be terminated at any time without assigning any reason thereof.
2. The post is created to attend to the additional work of 2001 Census and the post is likely to be discontinued or abolished on or before 28.2.2002.
3. The services of Shri/Smt. Tarak Chandra Kalita will stand terminated on the discontinuation of the sanction of this temporary post created for 2001 Census and the Govt. will have no liability thereafter.
4. The educational qualification required for the post is a Degree with Economics, Mathematics or Statistics as a subject from any recognised University. This offer is subject to the fulfillment of educational qualification prescribed in this paragraph.
5. This order is issued with the prior approval of the Registrar General of India.

If the offer of reengagement is acceptable to him/her with above terms and conditions, he/she is directed to intimate his/her acceptance to the undersigned within 10(ten) days of the receipt of this order failing which this offer of reengagement will stand cancelled.

Formal letter of reengagement will be issued on receipt of the above acceptance.

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

MEMO NO.DCO(E)126/2001/11995 - 12000 DATE: 10.8.2001
Copy for Information to:

1. The Registrar General, India, 2/A, Mansingh Road, New Delhi-110011.
2. The Dy.Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati. He is requested kindly to bring this fact to the notice of the Honourable Tribunal at the earliest.
3. Shri/Smt. Tarak Chandra Kalita is requested to furnish his/her mark sheet.
4. The Office Superintendents, (Accounts and Establishment).
5. Shri A. Deb Roy, Sr.Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati Bench, with a request to bring it to the notice of the Hon'ble Tribunal.
6. Concerned file.

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

Certified to be

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 142 of 2000.

Date of Order : This the 6th Day February, 2002.

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

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

1. Shri Bimalananda Das
2. Shri Harish Chandra Rabha (since expired)
3. Shri Nagen Rabha and
4. Shri Arjun Baruah

Applicants.

By Advocate S/Sri J.L.Sarkar and M.Chanda.

- Versus -

1. Union of India
through the Secretary to the
Government of India,
Ministry of Home Affairs,
New Delhi.
2. Registrar General of Census Operations,
2/A, Man Singh Road,
New Delhi.
3. Director of Census Operations,
Assam, G.S.Road,
Guwahati.
4. Shri M.R.Das,
Director of Census Operations,
Assam, G.S.Road,
Guwahati.

• • • Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J.(V.C)

In this application the applicant amongst others assailed the Circular bearing No.DCO(E)50/99/2172 dated 23/24.2.2000 (Annexure-3). In addition they also sought for a direction upon the respondents to appoint the four applicants in the existing available vacancies of Computer, Lower Division Clerk, Assistant Compiler, Proof Reader etc. in terms of the judgment and order dated 5.6.98 and 25.2.2000 in O.A.Nos. 161/99 and 76/2000 respectively.

contd..2

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Further the applicants also prayed for quashing the impugned letter No. DCO(E)/285/93/pt.III dated 21.2.2001 and letter No. DCO(E)/285/93/pt.III/2497-98 dated 21.2.2001 issued by the Director of Census Operation, Assam.

2. The 4 applicants who were engaged by the respondents in 1993, the applicant No.1 as LDC, applicant No.2,3 and 4 as Computer(Compiler/data entry). The applicant No.2 Sri Harish Chandra Rabha who died during the pendency of the proceeding. Appointment of these persons were made on ad hoc basis in connection with 1991 Census work. It was pointed out that they continued to work in the department and their services were terminated in December 1993. The applicants assailed the order of termination before this Tribunal by filing O.A.269/93. The said application was disposed of by the Tribunal on 5.6.98 directing the respondents to act in accordance with the decision rendered by the Supreme Court in Union of India vs. Dinesh Chandra Saxena, 1995 (29) ATC 585. The applicant made representation before the authority. Failing to get appropriate remedy the applicants again moved the Tribunal by filing O.A.161/99. By order dated 16.2.2000 the Tribunal directed the respondents to absorb the applicants in vacancies that would occur for census operations of 2000 in suitable posts for which the applicants were entitled. In another similar application filed by one of the applicant Sri Arjun Baruah, O.A.76/2000 which was also disposed of on 25.2.2000 in the similar manner. In the meantime the respondents authority took some measure for appointing persons by transfer on deputation to fill up the posts available for census of India 2001. At that stage the applicants moved this Tribunal assailing

the methodology of recruitment for filling up the vacancies of 2000-2001 census by overlooking the applicants absorption for such posts by way of this application. At that stage an interim order was passed by the Tribunal for considering the case of the applicants adjustment/absorption in the census operation. The said order was not an interim order for continuance of the applicants in service after the census work was over. In this application in substance the applicants sought for direction for absorption in the light of the earlier direction.

3. The respondents authority seriously contested the case and submitted its written statement. The respondents also submitted an additional written statement in the Tribunal today opposing the claim of regular appointment of these applicants. According to the respondents these applicants were engaged purely on ad hoc measure in compliance with the direction of the Tribunal. They were engaged to fill up the vacancy of 2001 census and therefore these applicants do not have any right to continue beyond 28.2.2000.

4. We have given our anxious consideration to the matter. In our view this matter is also 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. The High Court in the aforesaid judgment clarified the orders of the Tribunal and directed the authorities to offer the vacancies to the retrenchees according to their length of service. A person with longer length of service in a particular category would be offered the job first and then the other retrenchees in that order. After exhausting the retrenchees, if there

are still more vacancies available, those may be filled by any other method provided under the rules.

5. In view of the aforesaid direction we dispose of this application directing the respondents to consider the case of these applicants also in the light of the decision rendered by the Gauhati High Court in the aforementioned Writ petitions.

The application stands disposed of. There shall, however, be no order as to costs.

Sd/ VICE CHAIRMAN
Sd/ MEMBER (adm)

pg

15/8/2002
15/8/2002

12/19

By Fax/Speed Post

Annexure - 4

REGGENLIND

File No. 12011/1/2000-Ad. IV

मार्ग संकेत
GOVERNMENT OF INDIA
मंत्री प्राधिकार
MINISTRY OF HOME AFFAIRS/ORGI MANTRALAYA
गारा के मार्ग रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

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.

मार्ग संकेत

Directorate of Registration

1/2/2000 8.30

18/2/2000

Yours faithfully,

M. R. Singh

Under Secretary to the Govt. of India

MANTRALAYA

Certified to be true
S. S. Singh
A.P.

- 20 -

Annexure - 5

No.DCO(E)50/99/Pl.I/ 2054
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM
G.S. ROAD, ULUBARI, GUWAHATI - 781 007

Dated Guwahati, the 28th Feb, 02.

ORDER

In compliance with the Hon'ble Tribunal's order dated 28.11.2000 in OA No.342/2000 read with the Hon'ble High Court's order of judgement passed in WPC No.2531/01 to 2537/01 dated 7.6.2001 Shri Tara Charan Kalita was re-engaged as Computer (now designated as Compiler) in the office of the DCO., Assam, Guwahati against the temporary posts created for Census of India, 2001 upto 28.2.2002. The posts were initially created upto 28.2.2001 and subsequently extended for a period of one year upto 28.2.2002. The sanction of the aforesaid posts have been discontinued w.e.f. the afternoon of 28.2.2002 vide office of the Registrar General, India's letter No.11020/1/99-Ad.II dated 18.2.2002.

Therefore, the services of Shri Tara Charan Kalita, Compiler is discontinued w.e.f. the afternoon of 28.2.2002 with the discontinuation of sanction of the post.

(N.C. SEN)
Deputy Director of Census Operations,
Assam, Guwahati.

Memo No.DCO(E)50/99/Pl.I/2055-60 Dated 28.2.2002
Copy to:

1. The Registrar General, India
2/A, Mansingh Road
New Delhi - 110011 - for favour of information.
2. The Pay & Accounts officer (Census),
A.G.C.W & M Building
I.P. Estate, New Delhi - 110002.
3. The DDCO/ADCO.
4. The Office Supdt. (Estt. & Accts.)
5. Shri Tara Charan Kalita, Computer.
6. Notice Board

(N.C. SEN) 28/2/02
Deputy Director of Census Operations,
Assam, Guwahati

Certified to before ap

Sugathsh
Advocate

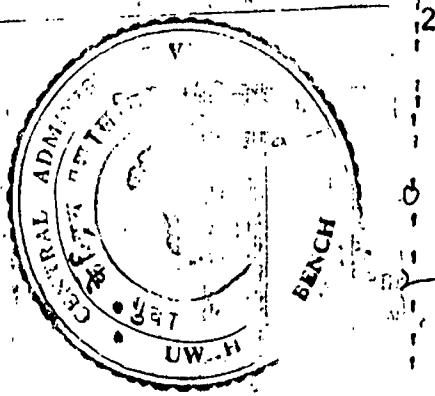
FORM NO. 4

(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 2205Respondent(s) C/o 2205Advocate for Applicant(s) Mr. B.K. Sharma, S. Sarma,
C.K. Naik & Miss G. Das.Advocate for Respondent(s) Case -

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
	26.2.02	<p>Heard Mr. B.K. Sharma, learned Sr. counsel for the applicants.</p> <p>The application is admitted. Call for the records.</p> <p>Issue notice to show cause as to why the interim order as prayed for shall not be granted. Returnable by two weeks.</p> <p>In the meantime, Respondents are directed not to oust the applicants from services till the returnable date.</p> <p>List on 15.3.2002 for order.</p>

Certified to be true copy
Smt. Usham Karmila DeviW.M.D.
23/2/02

Section Copy (d)

Original Copy
Central Adminis-
trative Tribunal
Guwahati
Bench23/2/02
Smt. Usham Karmila Devi

Sd/ VICE-CHAIRMAN

Sd/ MEMBER (Admn)

Certified to be true copy
Sujitkash
Advocate

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

O.A.NO.69/2002

3 MAY 2002

Shri Tara Charan Kalita
Guwahati Bench

Shri Tara Charan Kalita

Petitioner

-Vs-

Union of India and Others

--- Respondents

IN THE MATTER OF

Written statement submitted by the Respondent.

Preliminary objection:

The O.A. is hit by principle of promissory estoppels. Once the applicant has accepted job in terms of order dt. 17.8.2001, he is estopped from challenging the same.

Preliminary Submissions:

Census is conducted in the country after every ten years under the Census Act of 1948 under the directions of the Registrar General & Census Commissioner of India. For the purpose of conducting Census, Directorates have been established in each State/Union territory with permanent staff to carry out the normal function of these

31/5/2002
P.D. 3
R.C. 3
G.A. 3
(A. D.E.S. 3)
S. C. 3
G. A. 3
Guwahati Bench

182

directories. During the preparatory stage of every census, the volume of work increases to a great extent for which some additional posts are sanctioned for a very temporary period to cope with the additional work generated during the period of census. After the peak period is over, the sanctions for these posts are discontinued and the services of temporary staff are disengaged. This practice is being continued from 1971 census. Therefore, the process of engagement, re-engagement and disengagement of additional manpower for census operations is not new thing in the census organization, rather it is a regular phenomenon in each census since 1971. It is submitted that it is not appropriate to draw parallel between the Census Directorates and other organisations either State Govt. or Central Govt. considering the nature and volume of the work being performed.

- 1) Government created various temporary posts for various Directorates of Census Operations in connection with Census 2001 and also decided that these posts will be filled up by promotion or deputation only. The retrenched census employees of the census 1991 approached the Hon'ble Tribunal seeking their appointment against these temporary census posts and the Hon'ble Tribunal was pleased to order that these applicants were to be considered to be absorbed against the temporary posts created for Census Operation – 2001. In the mean time, the Hon'ble Gauhati High Court in WP(C) Nos. 2531/2001, 2532/2001, 2533/2001 2534/2001, 2535/2001, 2536/2001 and 2537/2001 passed a judgement on 7.6.2001 directing that the respondents would offer the vacancies to the

retrenchees according to their length of service. A person with longer length of service in a particular category would be offered the job first and the other retrenchees in that order. After exhausting the retrenchees, if there are still more vacancies available, these may be filled by any other method provided under the rules. A copy of the order of Hon'ble High Court dated 7.6.2001 is annexed as Annexure-R/1. In view of the aforesaid direction, the applicant was offered the post of Compiler for his reengagement by virtue of his seniority of the previous census against the post of Compiler on 10.8.2001. On his acceptance of the offer of appointment, he was issued the letter of appointment on 17.8.2001 subject to the condition that his re-engagement will not bestow upon him any right for regularization in the post in which he is re-engaged and his services shall be terminated at any time without assigning any reason thereof. It was further stipulated that the post against which he is appointed is the temporary post created for Census – 2001 and is likely to be discontinued on or before 28.2.2002. His services shall be terminated on the discontinuation / abolition of this temporary post created for 2001 census and the Govt. will have no liability thereafter. When the order of the Hon'ble High Court was to consider the petitioners to be absorbed against Census Operation posts and he was engaged against census posts only, his services is bound to be terminated alongwith abolition of census posts. In view of the law laid down by the Hon'ble Supreme in Union of India & Ors. - Vs - Harish Balkrishnan Mahajan, 1997(1) P.50 (SCSLJ), Jawaharlal Nehru Krishi Vishwa Vidyalaya, Jabalpur, M.P. – Vs - Bal Kishan Soni & Ors. 1997(2) P.175 (SCSLJ) and Committee of Management, Arya Nagar Inter

College, Arya Nagar, Kanpur through its Manager & Anr. – Vs - Sree Kumar Tiwary & Anr. 1997(2) P.178 (SCSLJ), the applicant cannot be regularized and once the post is abolished, the applicant cannot be continued.

2) There are no regular vacancies of Computer/Compiler to absorb the petitioner. 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 in accordance with the recruitment rules framed under article 309 of the Constitution of India. The applicant 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. 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 the leave of this Hon'ble Tribunal to refer to the decision of Hon'ble Apex Court in 1992 SCC(L&C) P. 805 1996 (2) SCSLT P. 316 State of Haryana & others V/s Piara Singh & others 1992 (4) Supreme Court Cases 118.

3) That it is respectfully submitted that in the DOPT's instructions dated 23rd July, 2001, it is clearly provided that no appointment can be made on ad-hoc basis by direct recruitment from open market. It

is also pertinent to submit here that in aforementioned letter, it is further provided that if in an exceptional case (e.g. in the case of operational organization), it is inescapable to resort to ad-hoc appointment by direct recruitment, prior concurrence of DOPT (Establishment "D" Section) may be obtained by giving full and complete justification for the same. It is submitted that in the present case, under the compelling circumstance and under the threat of contempt, the petitioner was given ad-hoc job by the Directorate of Census Operations, Assam, without prior concurrence of DOPT, therefore the appointment of the petitioner was contrary to rules and instructions on subject and is irregular. In view of the law laid down by the Hon'ble Supreme Court of India in the case of Ashwani Kumar & Ors. – Vs - State of Bihar & Ors. (page 281), the initial appointment of the petitioner being contrary to law, there is no question of their regularization. The relevant portion of the judgement is extracted below:

"As we have seen earlier when the initial appointment by Dr. Mallick so far as these daily wagers were concerned were illegal there was no question of regularizing such employees and no right accrued to them as they were not confirmed on available regular vacancies under the scheme. It passes one's comprehension as to how against 2500 sanctioned vacancies confirmation could have been given to 6000 employees. The whole exercise remained in the realm of an unauthorized adventure. Nothing could come out of nothing. Ex nihilo nihil fit. Zero multiplied by zero remained zero.

Consequently no sustenance can be drawn by the appellants from these confirmation orders issued to them by Dr. Mallick on the basis of the directions issued by the concerned authorities at the relevant time. It would amount to regularization of back door entries which were vitiated from the very inception. It is not possible to agree with the contention of learned counsel for appellants that the vacancies of the scheme had nothing to do with regular posts. Whether they are posts or vacancies they must be backed up by budgetary provisions so as to be included within the permissible infrastructure of the scheme. Any posting which is dehors the budgetary grant and on a non-existing vacancy would be outside the sanctioned scheme and would remain totally unauthorized. No right would accrue to the incumbent of such an imaginary or shadow vacancy"

Parawise Reply :

- 1) That with regard to the statement made in para 1 of the O.A., the respondents beg to state that the order dated 6.2.2002 of Hon'ble Tribunal in OA No. 142/2000 is not applicable to the applicant. However, it is submitted that the applicant was reengaged in the O/o The Director of Census Operations, Assam, Guwahati in compliance with the directions of the Hon'ble High Court delivered in WP(C)2531/01 to WP(C) No.2537/01 dt. 7.6.2001 against a purely temporary post created for a short term in connection with 2001 census on a purely temporary and adhoc basis available at that time

upto 28.2.2002 vide Office Order No. DCO (E) 126 / 2001 / 12179 dt.
17.8.2001.

The applicant was also informed of the following terms and conditions of his reengagement vide offer of appointment No. DCO (E) 126 / 2001 / 11994 dt. 10.8.2001.

- (a) This reengagement will not bestow upon him any right for regularisation in the post in which he is reengaged and his services shall be terminated at any time without assigning any reason thereof.
- (b) The post is created to attend the additional work of 2001 Census and the post is likely to be discontinued or abolished on or before 28.2.2002.
- (c) The services of Shri T .C. Kalita (Applicant) will stand terminated on the discontinuation of the sanction of this temporary post created for 2001 Census and the Govt. will have no liability thereafter.
- (d) The educational qualification required for the post is a Degree with Economics, Mathematics or Statistics as a subject from any recognised university as per Recruitment Rules. This offer is subject to the fulfilment of educational qualification prescribed in this paragraph.

It was also informed to the applicant that if the offer of reengagement is acceptable to him with the said terms and conditions, he is directed to intimate his acceptance to this Directorate within 10 days of the receipt of this order failing which the offer of reengagement will stand cancelled. On his acceptance of the terms and conditions aforesaid, the applicant was re-engaged as Computer w.e.f. 17.8.2001.

2) On review of the work load, the sanction of the posts in which the applicant was reengaged has been discontinued with effect from the afternoon of 28.2.2002 vide ORGI's letter No.11020/1/99-Ad.II dt. 18.2.2002 and the services of the applicant has been discontinued with effect from 28.2.2002.

The copies of letters dt. 10.8.2001, 17.8.2001 and 18.2.2002 are annexed as Annexure-R/2, Annexure-R/3 and Annexure-R/4.

3) That with regard to the statement made in para 2 to 4.1 of the O.A. respondents beg to offer no comments.

4) That with regard to the statement made in para 4.2 and 4.3 of the O.A., the respondents beg to state that the applicant was appointed on adhoc basis against a purely temporary post of Computer sanctioned for 1991 census after obtaining exemption from the Staff Selection Commission for filling up such short term vacancies. On discontinuation of the sanction of these temporary posts the services of the applicant were terminated with effect from

31.12.93. The applicant alongwith others, however, filed an OA No.269/93 before the Hon'ble Tribunal and the Hon'ble Tribunal disposed of the OA No.269/93 on 5.6.98 directing the respondents to act in accordance with the decision of the Hon'ble Supreme Court in Union of India and Others – Vs - Dinesh Kr. Saxena reported in (1995) 29 ATC 585. In this case the direction of the Hon'ble Supreme Court is to consider the retrenched census employees for appointments in any regular vacancies which may arise in the Directorate and which can be filled by direct recruitment, if such employees are otherwise qualified and eligible for these posts. The Hon'ble Supreme Court further directed that the appellant and/or the Staff Selection Commissioner may also consider giving weightage to the previous service rendered by such employees in the Census Department and their past service record in the Census Deptt. for the purpose of their selection to the regular posts. The Hon'ble Supreme Court also observed that "the retrenched Census employees will, however, have a right to be considered only if they fulfil all other norms laid down in connection with the posts in question under the Recruitment Rules and/or in other departmental regulations/circulars in that behalf". Recruitment to the posts for regular vacancies are done through Staff Selection Commission only. Regular appointment to the post cannot be done by the respondents without sponsorship from SSC. A copy of Hon'ble Tribunal's order dated 5.6.98 in OA No. 269/93 is annexed as Annexure-R/5.

- 5) That with regard to the statement made in para 4.4 of the O.A., the Respondents beg to state that the direction of the Hon'ble High

Court, Guwahati in WP(C) No.2531/01 to WP(C) 2537/01 dt, 7.6.2001 is to offer the vacancies to the retrenched employees according to seniority in their length of service against 2001 census posts. The applicant was accordingly reengaged against a temporary post of Compiler sanctioned for 2001 Census for the period upto 28.2.2002. After discontinuation of sanction of the post w.e.f. 28.2.2002, the applicant was disengaged w.e.f. 28.2.2002. A copy of judgement of Hon'ble High Court dated 7.6.2001 is annexed as Annexure-R/1.

6) That with regard to the statement made in para 4.5 of the O.A., the respondents beg to state that the Hon'ble Tribunal, Guwahati in its order dt. 6.2.2002 in O.A.No.142/2000 directed the respondents to consider the case of these applicants also in the light of the decision rendered by the Guwahati High Court i.e. to offer the vacancies to the retrenchees according to their length of service. The order of the Hon'ble Tribunal dt. 6.2.2002 has been considered, but the applicants could not be accommodated, since the sanction of the posts was discontinued w.e.f. 28.2.2002. Regarding the instructions dt. 14.2.2000 for filling up 2001 census posts issued by the ORGI, the applicant has misconceived and misinterpreted the terms incorporated therein. The referred terms in the circular apply to the promotees from the regular staff and not for the adhoc appointees against 2001 census posts as well as deputationists. Therefore the applicant is not at all entitled for absorption on regular basis against the long term vacancies unless it is sponsored by Staff Selection Commission. A copy of the judgement of Hon'ble Tribunal dated 6.2.2002 is annexed as Annexure-R/6.

7) That with regard to the statement made in para 4.6 of the O.A., the respondents beg to state that the applicant was reengaged against the purely temporary post of Computer created for 2001 Census for a period upto 28.2.2002. The termination order was passed on the discontinuation of sanction of 2001 Census posts. There is nothing wrong in the termination order as the condition laid down in the offer of appointment is as per the direction of the Hon'ble Tribunal as well as Hon'ble High Court for 2001 census posts and is very clear that the services of the applicant will stand terminated on the discontinuation of the sanction of the temporary posts created for 2001 Census and the Government will have no liability thereafter. The applicant cannot claim for continuation in service after the census operation is over. Since the additional work for census operations for this category of workers was over and since the sanction of the posts was discontinued w.e.f. 28.2.2002, there is no scope to retain the applicant in service as there is no vacancy. It is also reiterated that the order of the Hon'ble Tribunal in OA No.142/2000 dt. 6.2.2002 is to consider the case of applicants for their appointment only against a census post and not against a regular post. Therefore the applicants could not be accommodated as the sanction of temporary posts discontinued w.e.f. 28.2.2002.

8) That with regard to the statement made in para 4.7 of the O.A., the respondents beg to state that some resultant vacancies in the post of Computer were filled up by deputation from the State/Central Govt. organisations including a Public Sector undertakings like

Stated as per this directorate circular dt. 23/24.2.2000. Most of the deputationists are against the resultant vacancies in the post of Computer, etc. Only two deputationists are against the census posts of Compiler, but they are senior to the applicant in term of continuation of service in these posts. Therefore the action in continuing these deputationists is not arbitrary and illegal. It is also submitted that the circular dated 23/24.3.2000 issued by Director of Census Operations, Assam inviting applications for filling up of the posts by deputation as in exercise of direction issued by Government of India contained in ORGI's letter dated 14.2.2000, which is annexed as Annexure-R/8. The said circular dated 23/24.2.2000 has never been interfered either by Hon'ble Tribunal nor by the Hon'ble High Court. A copy each of the RGI's office letter dated 14.2.2000 and circular dated 23/24.2.2000 is annexed as Annexure-R/7 and R/8.

9) That with regard to the statement made in para 4.8 of the O.A., the respondent beg to state that the termination orders for the applicants were passed after the discontinuation of sanction of 2001 census posts. There is nothing wrong in the termination order as the condition laid down by the Hon'ble Tribunal in its order dt. 8.5.2000 in O.A. No.142/2000 that the applicant cannot claim for continuation in service after the census operation is over. Since the additional work for census operation for this category of workers are over and since the sanction of the post was discontinued w.e.f. 28.2.2002, there is no scope to retain them in service as there is no vacancy. Therefore the grant of benefit similar in O.A.No.62/2002 to the applicants does not arise as there is no sanction for the posts beyond 28.2.2002.

Two statements (Statement-I and Statement-II) indicating incumbency position in regular and census posts as on 1.3.2002 are annexed as Annexure-R/9 and Annexure-R/10.

- 10) That with regard to the statement made in para 4.11 of the O.A. the respondent beg to state that the applicant has misconceived and misinterpreted the term contained in the Circular dt. 14.2.2000, issued by the ORGI, New Delhi. The referred term of the circular applies to the promotees from the regular staff against 2001 census posts and not for the fresh and adhoc appointees against 2001 census posts.
- 11) That with regard to the statement made in para 4.12 of the OA, the respondents beg to say that it is a fit case to be dismissed at the admission stage itself on the following grounds.
 - (i) The termination order with regard to the applicant was issued after the abolition of 2001 Census posts.
 - (ii) There is no regular vacancy against core side and therefore the applicant cannot be considered for retention.
 - (iii) That the applicant cannot be considered for any other category of post as per the Hon'ble High Court's order.

(iv) That the applicant is not even qualified for other categories of posts.

(v) That the applicant cannot be considered for appointment against any direct recruit quota without the sponsorship from the Staff Selection Commission.

12) That with regard to the statement made paras 5.1 to 5.3 of the OA, respondents beg to state that the averment made in these paras is misconceived and baseless as the order dated 6.2.2002 in OA No.142/2000 directs to re-engage the ex-census employees against the temporary posts created in connection with census 2001 only and not against the regular posts or to regularize them against the regular posts. The order dated 6.2.2002 also does not direct the respondents to continue the census posts.

The answering respondents respectfully beg to state herein that neither the Hon'ble Gauhati High Court nor this Hon'ble Tribunal has directed them at any point of time to regularize the services of the applicants against permanent vacancies in core posts. But it further stated herein that the applicants cannot be regularized against such permanent vacancies, if any, in core posts, by giving a complete go by to the relevant Recruitment Rules. This established position of law has been reiterated time and again by the Hon'ble Supreme Court in a *caæna* of decisions.

13) That with regard to the statement made paras 5.4 and 5.5 of the OA, respondents beg to state that the averments made in these paras are misconceived and baseless as the order dated 6.2.2002 in OA No.142/2000 passed by the Hon'ble Tribunal does not create any right in favour of applicants to be regularized. It is submitted that there is no vacancy in the Directorate in the post of category applicable to the applicant i.e. Compiler against which the applicant could be considered for further continuation. It is also submitted that appointment against the regular posts is to be done in accordance with the recruitment rules framed under the article 309 of the Constitution of India.

14) That with regard to the statement made paras 5.6 and 5.7 of the OA, respondents beg to state that the averment made in these paras is misconceived and baseless as the order dated 6.2.2002 in OA No.142/2000 directs to re-engage the ex-census employees against the temporary posts created in connection with census 2001 only and not against the regular posts or to regularize them against the regular posts.

15) That with regard to the statement made paras 5.8 and 5.9 of the OA, respondents beg to state that the averment made in these paras is misconceived and baseless as termination order dated 28.2.2002 has been issued as the census posts of Compiler has been discontinued by Govt. due to reduction of workload of census 2000 and there is no post of Compiler available for continuing the

applicant beyond 28.2.2002. It is submitted that the order dated 6.2.2002 in OA No.142/2000 directs to re-engage the ex-census employees against the temporary posts created in connection with census 2001 only and not against the regular posts or to regularize them against the regular posts.

16) That with regard to the statement made para 5.10 of the OA, respondents beg to state that the averment made in this para is misconceived and baseless as the employees taken on deputation are senior to the applicants in the order of their seniority with reference to their period of current service in the census posts and hence they are continuing in the resultant vacancies in the regular posts. It is also submitted that the termination order dated 28.2.2002 has been issued as the census posts of Compiler has been discontinued by Govt. due to reduction of workload of census 2000 and there is no post of Compiler available for continuing the applicant beyond 28.2.2002. It is submitted that the contention of the applicant that the order dated 6.2.2002 in OA No.142/2000 directs to regularize them is totally wrong.

17) That respondents beg to state that the Hon'ble Guwahati High court in its order dt. 7/6/2001 in WP.(C) No.2531/01 to WP.(C) 2537/01 directed to prepare the seniority list of retrenched Census employees according to length of service for each category of employee and to offer them job in the census posts according to seniority against 2001 Census

vacancies. Keeping in view that order, Sh. Kalita can not be allowed to continue as the there is no census post available for Compiler beyond 28.02.2002. Further, for appointment to the post of Compiler against regular vacancy candidates are to be sponsored by the SSC as per Recruitment Rule/Govt. instructions. The applicant was appointed against the post of Compiler during 1991 Census through Employment Exchange after grant of exemption by the Deptt. of Personnel for appointment against the short – term posts created for 1991 Census. This exemption was only applicable for census post 1991 Census. In view of these facts, the applicant cannot be accommodated in any manner.

- 18) The OA is premature and hit by Section 20 of AT Act, 1985.
- 19) The applicant had filed earlier OA and the judgement passed in the same is carried out in letter and spirit.
- 20) The content of paras 8 and 9 are misconceived and devoid of merit and hence deserve to be dismissed. The applicants are not entitled to any interim relief. The Hon'ble Tribunal may be pleased to dismiss the O.A. as well the payer for interim relief.
- 21) It is submitted that Para 10 to 12 need no reply.

VERIFICATION

I, Shri N.C.Sen presently working as Deputy Director of Census Operations, Assam be duly authorised and competent to Sign this Verification, do hereby solemnly affirm and state that Statement made in para 7, 10 to 17 are true to my knowledge and belief and those made in para 1, 4, 5, 6, 8, 9 being matter of records, are true to the best of my information derived from the office records and the rest are my humble submission before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign the verification this 30th day of April, 2002.



Deponent

प्रतिलिपि के लिए आवेदन की तारीख Date of application for copy.	स्टाम्प और फोलिओ की अपेक्षित संख्या सूचित करने की तिथि Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोलिओ देने की तारीख Date of delivery of the requisite stamps and folios.	तारीख, जबकि देने के लिए प्रतिलिपि तैयार थी Date on which the copy was ready for delivery.	आवेदक को प्रतिलिपि देने की तारीख Date of making over the copy to the applicant.
13/6/2001	13/6/2001	13/6/2001	13/6/2001	13/6/2001

Annexure-1

15

(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
2537/2001.

(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, Ukhru,
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.-

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

16
89
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.

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 Ammenudeen 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 retrenchedes 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

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
Panchayat Secretary, be given to the counsel for the
parties.

Sd/- R S Monga
Chief Justice (Acting)

Sd/- D Bishwak
Judge

Certified to be true copy
Subash Kumar Shrestha
Superintendent (Copying) 13/6/2007.
GAUHATI HIGH COURT
Authorised U/S 36 Act of 1970

H No 10037
Date 11.6.07

Annexure - R-2

NO. DCO(E)126/2001/11995
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS : ASSAM: GUWAHATI
REGISTERED (25)

Dated Guwahati the 10th Aug/2001.

Offer of Reengagement

In compliance with the Honourable Central Administrative Tribunal's order of judgement in O.A.No.342/2000 dated 28.11.2000 and O.A. No.385/2000 dt.16.1.2001 read with the Honourable Guwahati high Court's judgement in W.P.© No.978/2001, 979/2001 dt.5.3.2001 and No.2531/2001 to 2537/2001 dt.6.5.2001, Shri/Smt. Taracharan Kalita, designated as Compiler created for 2001 census in the scale of pay of Rs.4000-100- 6000/- and other allowances as admissible from time to time on a purely temporary and adhoc basis upto 28.2.2002 or upto such time the sanction of post continues, whichever is earlier, under the following terms and conditions.

Terms and Conditions

1. This reengagement will not bestow upon him/her any right for regularisation in the post in which he/she is reengaged and his/her services shall be terminated at any time without assigning any reason thereof.
2. The post is created to attend to the additional work of 2001 Census and the post is likely to be discontinued or abolished on or before 28.2.2002.
3. The services of Shri/Smt. Taracharan Kalita will stand terminated on the discontinuation of the sanction of this temporary post created for 2001 Census and the Govt. will have no liability thereafter.
4. The educational qualification required for the post is a Degree with Economics, Mathematics or Statistics as a subject from any recognised University. This offer is subject to the fulfillment of educational qualification prescribed in this paragraph.
5. This order is issued with the prior approval of the Registrar General of India.

If the offer of reengagement is acceptable to him/her with above terms and conditions, he/she is directed to intimate his/her acceptance to the undersigned within 10(ten) days of the receipt of this order failing which this offer of reengagement will stand cancelled.

Formal letter of reengagement will be issued on receipt of the above acceptance.

S Baruah
10/8/01

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

MEMO NO.DCO(E)126/2001/11995 - 12000 DATE: 10.8.2001
Copy for Information to:

1. The Registrar General, India, 2/A, Mansingh Road, New Delhi-110011.
2. The Dy.Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati. He is requested kindly to bring this fact to the notice of the Honourable Tribunal at the earliest.
3. Shri/Smt. Taracharan Kalita, 2/11/13, 2nd Floor, P.C. Kukurmara
4. The Office Superintendents, (Accounts and Establishment) 20/8/- Kamrup, M.L. Guwahati Bench, with a request to bring it to the notice of the Hon'ble Tribunal.
5. Shri A. Deb Roy, Sr.Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati Bench, with a request to bring it to the notice of the Hon'ble Tribunal.
6. Concerned file.

S Baruah
10/8/01

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

10/8/01

Q



सत्यमेव जयते

No.DCO(E)126/2001/12179,

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA

कार्यालय असम जनगणना निदेशक

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM

जि. एस. रोड. उलुबारी, गुवाहाटी - 781007

G.S. ROAD, ULUBARI, GUWAHATI-781007

दिनांक गुवाहाटी

Dated Guwahati 17.08.2001.

OFFICE ORDER

In compliance of the Hon'ble Central Administrative Tribunal's order dated 28.11.2000 and dated 16.1.2001 in OA No. 342/2000 and No.385/2000 respectively read with Hon'ble High Court's Judgement in WP(C) No 978/2001 & 979/2001 dt. 5.3.2001 and WP(c) 2531/2001 to 2537/2001 dt. 7.6.2001 Shri Taracharan Kalita is hereby reengaged in the o/o the D.C.O., Assam,Guwahati as Computer (now designated as Compiler) against a purely temporary post created for a short term in connection with Census 2001 on purely temporary and ad-hoc basis upto 28.2.2002 or upto the date on which the sanction of the post expires, whichever is earlier, in the pay scale of Rs. 4000-100-6000/- p.m. plus other allowances as admissible from time to time.

The re-engagement will not bestow upon him any right for regularisation in the post in which he is re-engaged and his services shall be terminated at any time without assigning any reason thereof.

The post is created to attend to the additional works of 2001 Census and is likely to be discontinued / abolished on or before 28.2.2002. The services of Shri Taracharan Kalita will be disengaged on the discontinuation of the sanction of this temporary post created for 2001 Census and the Government will have no liability thereafter.

Shri Taracharan Kalita is to join immediately.

S Baruah
17/8/2001
(DR. S. K. BARUAH)
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM :::::: GUWAHATI.

contd...2.

Memo No. DCO(E)126/2001 / 12180-86,

dt. 17.08.2001.

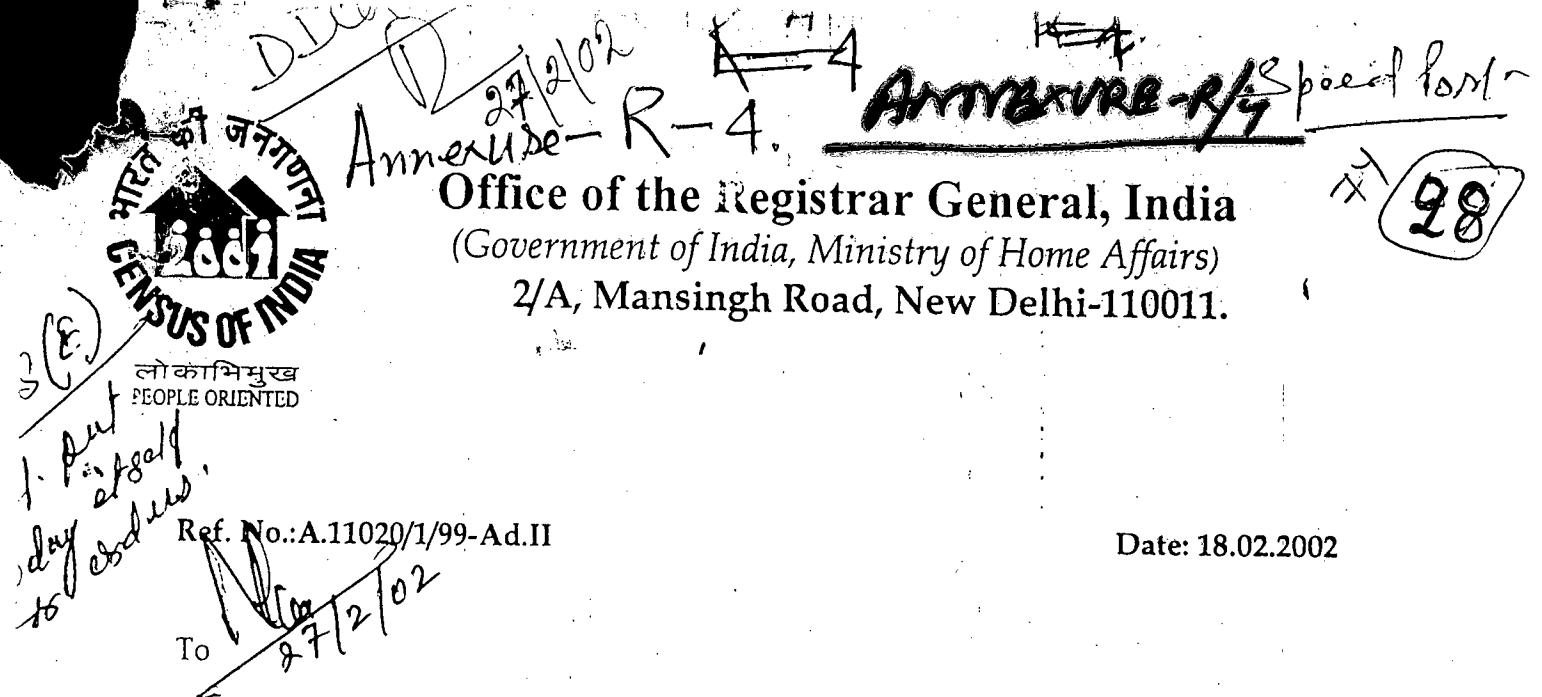
28
X2

Copy to :-

1. The Registrar General, India, 2/A Mansingh Road, New Delhi - 110011.
2. The Pay & Accounts Officer (Census), AGCW & M Building New Delhi - 2.
3. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
4. Shri A. Deb Roy, Sr. CGSC, CAT, Guwahati.
5. The Office Supdt. (Estt. & Accounts).
6. Shri Taracharan Kalita, Vill - Bheti Jankar, P.O. Kukurmara, Dist - Kamrup.
7. File No. DCO(E)285/93/pt.3

*S. Baruah
17/8/01
ASSTT. DIRECTOR OF CENSUS OPERATIONS
ASSAM ::::: GUWAHATI.*

[REDACTED]



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, Assam 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

निम्न शब्द अन्तर्गत हैं
Director of Census Operations
प्रमाणित तारीख..... 10/9/2002
निम्न तारीख..... 27/2/2002
निम्न तारीख..... 27/2/2002

असम, गुवाहाटी
ASSAM GUWAHATI

			4	5	6
1.	Jt. Director of Census Operations	Rs.10,000- 15,200	1	1	-
2.	Asstt. Director of Census Operations(G)	Rs.8,000- 13,500	1	1	-
3.	Research Officer	Rs.8,000- 13,500	1	1	-
4.	Statistical Investigator Gr.II	Rs.5,500-9,000	2	1	1
5.	Assistant	Rs.5,000-8,000	2	2	-
6.	Confidential Assistant	Rs.5,500-9000	1	1	-
7.	Sr. Drawing Assistant	Rs.6,500-10500	1	1	-
8.	Sr. Technical Assistant (Printing)	Rs.5,500-9,000	1	-	1
9.	Senior Draftsman	Rs.5,500-9,000	2	1	1
10.	Printing Inspector	Rs.5,000-8,000	1	1	-
11.	Statistical Investigator Gr.III	Rs.5,000-8,000	5	5	-
12.	Compiler	Rs.4,000-6,000	8	2	6
13.	UDC	Rs.4,000-6,000	2	2	-
14.	Daftry	Rs.2,610-3,540	1	1	-
		Total	29	20	9

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

1. Director of Census Operations, Assam
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

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 269 of 1993.

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

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

Shri G.L.Sanglyine, Administrative Member.

Shri Santanu Goswami and 20 others.

Applicants.

By Advocate Shri B.Malakar

- Versus -

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

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

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

Respondents.

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

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER

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

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

30
X8
Date of appointment

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

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

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



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

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

contd/-

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

3. We have heard learned counsel of both sides. The Directorate of Census Operation, Assam is under the Ministry of Home Affairs, Government of India and has its permanent employees. However, in order to carry out census operations relating to a particular census temporary posts were created. According to the records produced by Mr.Ali 15 post of Computers, 3 posts of Lower Division Clerks, 2 posts of Peons and 1 post of Farash were created and sanctioned vide order No.2/5/89-RG(Ad.II) dated 6-4-1990, the competent authority in connection with the 1991 census for the Directorate of Census Operations, Assam in so far as this O.A. is concerned. All the posts

contd/-

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

contd/-

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

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

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

contd/-

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

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

contd/-

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

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

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

contd/-

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

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

Sd/- VICE CHAIRMAN
Sd/- MEMBER (ADMN)



TRUE COPY

প্রতিলিপি

22/6/1978

Section Officer: 100

আনুপ্রাণ অধিকারী (স্থানিক শাস্তি)

Central Administrative Tribunal

কেন্দ্রীয় প্রশাসনিক অধিকরণ

Guwahati Bench, Guwahati-6

গুৱাহাটী-৬, পুরুষ পুরো, গুৱাহাটী-৬

22/6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 142 of 2000

Date of Order : This the 6th Day February, 2002.

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

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

1. Shri Bimalananda Das
2. Shri Harish Chandra Rabha (since expired)
3. Shri Nagen Rabha and
4. Shri Arjun Baruah

Applicants.

By Advocate S/Sri J.L.Sarkar and M.Chanda.

- Versus -

1. Union of India
through the Secretary to the
Government of India,
Ministry of Home Affairs,
New Delhi.

2. Registrar General of Census Operations,
2/A, Man Singh Road,
New Delhi.

3. Director of Census Operations,
Assam, G.S.Road,
Guwahati.

4. Shri M.R.Das,
Director of Census Operations,
Assam, G.S.Road,
Guwahati.

Respondents.

By Sri A.Deb Roy, Sr.C.G.S.C.

O R D E R

CHOWDHURY J. (S.C.)

In this application the applicant amongst others assailed the Circular bearing No.DCO(E)50/99/2172 dated 23/24.2.2000 (Annexure-3). In addition they also sought for a direction upon the respondents to appoint the four applicants in the existing available vacancies of Computer, Lower Division Clerk, Assistant Compiler, Proof Reader etc. in terms of the judgment and order dated 5.6.98 and 25.2.2000 in O.A.Nos. 161/99 and 76/2000 respectively.

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Further the applicants also prayed for quashing the impugned letter No. DCO(E)/285/93/Pt.III dated 21.2.2001 and letter No. DCO(E)/285/93/Pt.III/2497-98 dated 21.2.2001 issued by the Director of Census Operation, Assam.

2. The 4 applicants who were engaged by the respondents in 1993, the applicant No.1 as LDC, applicant No.2, 3 and 4 as Computer(Compiler/data entry). The applicant No.2 Sri Harish Chandra Rabha who died during the pendency of the proceeding. Appointment of these persons were made on ad hoc basis in connection with 1991 Census work. It was pointed out that they continued to work in the department and their services were terminated in December 1993. The applicants assailed the order of termination before this Tribunal by filing O.A.269/93. The said application was disposed of by the Tribunal on 5.6.98 directing the respondents to act in accordance with the decision rendered by the Supreme Court in Union of India vs. Dinesh Chandra Saxena, 1995 (29) ATC 585. The applicant made representation before the authority. Failing to get appropriate remedy the applicants again moved the Tribunal by filing O.A.161/99. By order dated 16.2.2000 the Tribunal directed the respondents to absorb the applicants in vacancies that would occur for census operations of 2000 in suitable posts for which the applicants were entitled. In another similar application filed by one of the applicant Sri Arjun Baruah, O.A.76/2000 which was also disposed of on 25.2.2000 in the similar manner. In the meantime the respondents authority took some measure for appointing persons by transfer on deputation to fill up the posts available for census of India 2001. At that stage the applicants moved this Tribunal assailing

contd..3

the methodology of recruitment for filling up the vacancies of 2000-2001 census by overlooking the applicants absorption for such posts by way of this application. At that stage an interim order was passed by the Tribunal for considering the case of the applicants adjustment/absorption in the census operation. The said order was not an interim order for continuance of the applicants in service after the census work was over. In this application in substance the applicants sought for direction for absorption in the light of the earlier direction.

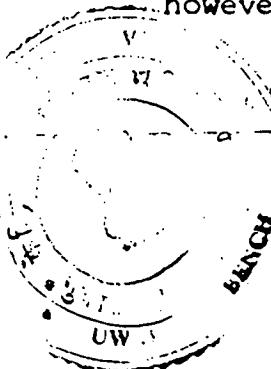
3. The respondents authority seriously contested the case and submitted its written statement. The respondents also submitted an additional written statement in the Tribunal today opposing the claim of regular appointment of these applicants. According to the respondents these applicants were engaged purely on ad hoc measure in compliance with the direction of the Tribunal. They were engaged to fill up the vacancy of 2001 census and therefore these applicants do not have any right to continue beyond 28.2.2000.

4. We have given our anxious consideration to the matter. In our view this matter is also 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. The High Court in the aforesaid judgment clarified the orders of the Tribunal and directed the authorities to offer the vacancies to the retrenchees according to their length of service. A person with longer length of service in a particular category

are still more vacancies available, those may be filled by any other method provided under the rules.

5. In view of the aforesaid direction we dispose of this application directing the respondents to consider the case of these applicants also in the light of the decision rendered by the Gauhati High Court in the aforesaid Writ Petitions.

The application stands disposed of. There shall, however, be no order as to costs.



Sd/VICE CHAIRMAN
Sd/MEMBER (Admn)

Certified to be true Copy
सत्याकारी कॉपी

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15-11-1972
Accorded
Gauhati High Court
Gauhati
19/11/72
H.C. 19/11/72

Annexure - R - 7

Ref. No. 12011/4/2000-Ad.IV

मंत्री परिषद
GOVERNMENT OF INDIA

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

14/2/2000
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.

Directorate of Revenue Survey

18/2/2000
F. No. 18/2/2000

Yours faithfully,

M. R. Singh

(M. R. Singh)

Under Secretary to the Govt. of India

GOVERNMENT

the 23rd Feb. 2000

C I R C U L A R

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

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

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

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

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

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

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

Contd.....2

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

(M. R. DAS)

DIRECTOR OF CENSUS OPERATIONS : ASSAM
GUWAHATI

— — —

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ANNEXURE - I

Name of the post and pay scale

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

Eligibility condition

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

(ii) Degree of a recognised University or equivalent.

Draftsman
Rs.4500-125-7000/- p.m.

Officials from Central/State survey offices.

(i) Matriculation or equivalent.

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

Desirable

At least one year experience as draftsman cum Artist.

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

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

(i) Degree of a recognised University or equivalent.

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

contd. 2

Computer

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

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

Essential : Degree with Economics or statistics or Mathematics as a subject from any recognised university.

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

Lower Division Clerk

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

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

(i) Matriculation or equivalent.

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

Sr. Technical Asstt. (Ptg.)

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

Officers of the Central/State Govt.

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

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

Sr. Stenographer

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

Officials of the Central Govt./ State Government

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

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

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

Contd.....3

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

Officials of the Central/State
Govt.

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

or

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

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

Officials of the Central/State
Govt.

Middle school standard pass from a recognised school

ANNEXURE - II

(50)

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

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

Signature of applicant

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

1. It is certified that the particulars furnished by the official are correct.
2. It is certified that no disciplinary case is pending contemplated against applicant and he/she is clear from vigilance angle.

Head of office

Annexure - R - 9

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STATEMENT - I

Name of the DCO: ASSAM, Guwahati

CORE POSTS

Incumbency position as on 1.3.2002

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
1.	Joint Director (10000-15200)	1	1	-	The post was filled up and transferred to DCO, Nagaland alongwith the incumbent.
2.	Deputy Director Of Census Operations (10000-15200)	3	3	-	<ul style="list-style-type: none">1. Sri N.C. Sen2. Sri B.L. Sarmah3. Sri S.S. Hiramath
3.	Assistant Director Of Census Operations (T) (8000-13500)	3	-	3	<ul style="list-style-type: none">1.2. To be filled up by ORGI.3.
4.	Statistical Investigator Gr. I (6500-10500)	4	4	-	All the four posts sanctioned/earmarked for the Directorate consequent to restructuring of Statistical cadre w.e.f. 29.9.2000. The posts have been filled up by promoting the following incumbents:- <ul style="list-style-type: none">1. Sri B.M. Talukdar2. Sri P. Kalita

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>3. Sri G.K. Dutta 4. Sri A.C. Borgohain</p>
5.	Statistical Investigator Gr. II (5500-9000)	4	4	-	<p>4 posts sanctioned and earmarked for Directorate as a result of restructuring of Statistical cadre. The following incumbents are occupying the 4 posts: -</p> <p>1. Sri R. Dihingia 2. Sri J.N. Bordoloi 3. Sri P.K. Borah 4. Sri B. Saikia.</p>
6.	Statistical Investigator Gr. III (5000-8000)	10	9	1	<p>Originally, 10 posts were filled up by appointing the following incumbents through various modes contained in Recruitment Rules. The permanent holders of these posts are: -</p> <p>1. Sri T.D. Sinha 2. Sri K.C. Patwary 3. Sri B.N. Sharma 4. Sri B.K. Bhattacharjee 5. Sri R.C. Hazarika 6. Sri D.N. Barman</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>7. Sri Ramani Barman 8. Sri Bipul Kumar Baruah 9. Sri R.P. Neog 10. Srj B.K. Pawe</p> <p>1 resultant vacancy has occurred due to temporary / adhoc promotion of the senior-most SI Gr. III (Sri T.D. Sinha) to a temporary and short term post created for Census-2001.</p>
7.	Sr. Compiler (4500-7000)	7	7	-	<p>As a result of restructuring of Statistical Cadre, 7 posts of Sr. Compiler have been sanctioned / earmarked for the Directorate. The posts are held permanently by the following incumbents: -</p> <p>1. Sri K.K. Bhattacharjee 2. Sri B.C. Kakoty 3. Sri N.C. Barman 4. Sri H.N. Kalita 5. Sri C. Chakraborty 6. Sri D. Hazarika 7. Sri D.B. Baruah</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Out of 7 regular incumbents in the grade of Sr. Compiler on core side, the following have been promoted temporarily and on adhoc basis against 5 posts of SI Gr. III created for main Census Operations – 2001: -</p> <ul style="list-style-type: none"> 1. Sri K.K. Bhattacharjee 2. Sri B.C. Kakoty 3. Sri N.C. Barman 4. Sri H.N. Kalita 5. Sri C. Chakraborty <p>Next senior and eligible incumbents in the grade of Sr. Compiler have been promoted against 2 posts SA (SI Gr. III) temporarily created for Data Centre in the Directorate: -</p> <ul style="list-style-type: none"> 1. Sri D. Hazarika 2. Sri D.B. Baruah <p>Thus all the 7 permanent and regular incumbents in the grade of Sr. Compiler have been promoted on adhoc basis against 5</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Posts of SI Gr. III and 2 posts of SI Gr. III created for Census – 2001 operations and Data Centre.</p> <p>7 resultant vacancies in the grade of Sr. Compiler due to adhoc promotion of 7 regular incumbents against the temporary posts of SI Gr. III (Census Operations) and SI Gr. III (Data Centre) have been filled up by promoting the following 7 incumbents on adhoc basis in the grade of Compiler on core side: -</p> <ol style="list-style-type: none"> 1. Sri B.K. Barman 2. Sri Prakash Baruah 3. Smt. P. Bhattacharjee 4. Sri C.N. Ojha 5. Sri K.C. Baishya 6. Sri A.K. Baruah 7. Sri T.C. Goswami <p>Thus, there is no vacancy in the grade of Sr. Compiler on core side.</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
8.	Compiler (4000-6000)	19	19	-	<p>Originally all the 19 posts are occupied on regular basis with the following incumbents: -</p> <ol style="list-style-type: none"> 1. Sri B.K. Barman 2. Sri Prakash Baruah 3. Smt. P. Bhattacharjee 4. Sri C.N. Ojha 5. Sri K.C. Baishya 6. Sri A.K. Baruah 7. Sri T.C. Goswami 8. Sri Arun Hazarika 9. Sri L.C. Borah 10. Sri M. Konwar 11. Sri P.K. Sharma 12. Sri B.C. Das 13. Sri A.C. Deka 14. Smt. Khana Das 15. Smt. P. Chaudhury 16. Sri Lohit Das 17. Sri Bukul Chutia 18. Sri D.R. Bora 19. Sri D.R. Baishya

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Seven seniormost Compilers named below on core side have been promoted temporarily against 7 (seven) resultant vacancies of Sr. Compiler also on core side as explained at Sl. No. 7 above: -</p> <ul style="list-style-type: none"> 1. Sri B.K. Barman 2. Sri Prakash Baruah 3. Smt. P. Bhattacharjee 4. Sri C.N. Ojha 5. Sri K.C. Baishya 6. Sri A.K. Baruah 7. Sri T.C. Goswami <p>After adhoc promotion of the above persons against the resultant vacancies in the posts of Sr. Compiler on core side, the following regular incumbents are holding 12 permanent posts in the grade of Compiler: -</p> <ul style="list-style-type: none"> 1. Sri Arun Hazarika 2. Sri L.C. Borah 3. Sri M. Konwar 4. Sri P.K. Sharma 5. Sri B.C. Das

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>6. Sri A.C. Deka 7. Smt. Khana Das 8. Smt. P. Chaudhury 9. Sri Lohit Das 10. Sri Bukul Chutia 11. Sri D.R. Bora 12. Sri D.R. Baishya</p> <p>6 out of 7 (seven) resultant vacancies occurring in the grade of Compiler have been filled up by temporary and adhoc promotion of 6 eligible regular Asst. Compilers on core side. They are as indicated below: -</p> <p>1. Sri L.K. Nath 2. Sri R. Kt. Deka 3. Sri M.N. Sharma 4. Sri Niranjan Das 5. Sri S. Swargiary 6. Sri A. Hazoary</p> <p>Remaining one resultant vacancy has been filled up by appointing the following person by deputation: -</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>1. Sri Keshab Goswami</p> <p>Thus, all the 19 posts in the grade of Compiler on core side now stand filled up as on 1.3.2002.</p>
9.	Asst. Compiler (3050-4590)	19	16	3	<p>Out of 19 sanctioned posts, 18 are filled up and occupied permanently by the following incumbents: -</p> <ul style="list-style-type: none"> 1. Sri L.K. Nath 2. Sri R. Kt. Deka 3. Sri M.N. Sharma 4. Sri Nirenjan Das 5. Sri S. Swargiary 6. Sri A. Hazoary 7. Smt. Dipti Sharma 8. Sri B. Baishya 9. Md. S.N. Haque 10. Sri A. Barthakur 11. Sri Parag Das 12. Sri Balen Kalita 13. Sri K. Boro 14. Sri A. Chakraborty 15. Sri N. Boro

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>16. Smt. D. Doley 17. Sri Nabajyoti Sharma 18. Sri K. Tumang</p> <p>One regular post is vacant, which is reserved for OBC for which recommendation of SSC is awaited.</p> <p>From among 18 permanent and regular Asst. Compilers mentioned above, the following 6 (six) eligible Asst. Compilers have been promoted temporarily against 6 out of 7 resultant vacancies in the grade of Compiler: -</p> <p>1. Sri L.K. Nath 2. Sri R. Kt. Deka 3. Sri M.N. Sharma 4. Sri Niranjan Das 5. Sri S. Swargiary 6. Sri A. Hazoary</p> <p>Since no more Asst. Compilers are eligible, one remaining resultant vacancy in the grade of Compiler has been filled up by deputation.</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>The following incumbents are presently occupying on permanent basis 12 posts of Asst. Compiler: -</p> <ol style="list-style-type: none"> 1. Smt. Dipti Sharma 2. Sri B. Baishya 3. Md. S.N. Haque 4. Sri A. Barthakur 5. Sri Parag Das 6. Sri Balen Kalita 7. Sri K. Boro 8. Sri A. Chakraborty 9. Sri N. Boro 10. Smt. D. Doley 11. Sri Nabajyoti Sharma 12. Sri K. Tumang <p>Out of 7 vacancies, 4 have been filled up by deputation and the names of deputationists are indicated below: -</p> <ol style="list-style-type: none"> 1. Smt. Seema Kumari 2. Sri Ameo Kumar Das 3. Smt. D. Lahkar 4. Sri B. Das

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Thus, they are now 3 vacancies in the grade of Asst. Compiler. 2 are resultant vacancies and 1 vacancy is permanent one reserved for OBC for which the recommendation of SSC is awaited.</p> <p>It may be noted that when all the posts created for 2001 census are abolished and the officiating officials are reverted back to their original posts in which they hold permanent lien, there will remain one regular vacancy only which is reserved for OBC to be filled up through SSC.</p>
10.	Sr. Geographer (6500-10500)	1	1	-	Filled up permanently by appointing Sri Kailash Das.
11.	Cartographer (5500-9000)	1	1	-	Filled up by appointing Sr. A. Sharma on deputation basis.
12.	Sr. Draftsman (5500-9000)	2	2	-	<p>Originally 2 permanent posts are filled up on permanent basis and incumbents are: -</p> <p>1. Smt. S.K. Chetia 2. Smt. Minu Kalita</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Smt. S.K. Chetia has been temporarily promoted against one temporary post of Sr. Drawing Assistant for Census-2001. Smt. Minu, Kalita is permanently holding one permanent post of Sr. Draftsman.</p> <p>1 resultant vacancy which occurred due to temporarily promotion of Smt. S.K. Chetia to census post of Sr. Drawing Assistant has been filled up by temporary / adhoc promotion of Smt. R. Mazumdar (permanent Draftsman).</p> <p>Smt. Biju Mahanta, seniormost permanent Draftsman has been temporarily promoted against one temporary post of Sr. Draftsman created for Census – 2001.</p>
13.	Draftsman (5000-8000)	3	1	2	<p>3 permanent posts of Draftsman are originally filled up with the following incumbents: -</p> <ol style="list-style-type: none"> 1. Smt. Biju Mahanta 2. Smt. R. Mazumdar 3. Smt. Mamani Kalita

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Smt. Biju Mahanta has been temporarily promoted against a temporary census post of Sr. Draftsman.</p> <p>Smt. R. Mazumdar has been promoted on adhoc basis against the resultant vacancy in the grade of Sr. Draftsman caused on account of temporary promotion of Smt. S.K. Chetia, permanent Sr. Draftsman against a temporary census post of Sr. Drawing Assistant.</p> <p>Smt. Mamani Kalita is holding one permanent post of Draftsman at present.</p> <p>There thus remain 2 resultant vacancies in the regular grade of Draftsman. If the census posts are abolished and the above incumbents who hold permanent lien are reverted to their substantive posts, there will be no vacancy in the grade of Draftsman on core side.</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
14.	Proof Reader (4500-7000)	1	1	-	<p>Permanent holder of the post is Sri S.N. Rabha. He has been promoted on temporary basis against a temporary census post of Printing Inspector.</p> <p>The resultant vacancy has been filled up by deputation (Smt. Cinema Medhi).</p>
15.	HPMO (3050-4590)	1	1	-	Sri B. Kt. Hazarika is holding the post on deputation. He is likely to be absorbed permanently.
16.	Office Superintendent (5500-9000)	2	2	-	<p>Filled up on permanent basis: -</p> <ol style="list-style-type: none"> 1. Sri A.C. Gayan 2. Sri N.N. Pathak.
17.	Sr. Stenographer (5000-8000)	1	1	-	The post is permanently held by Sri K.N. Gogoi. He has been promoted against a census post of Confidential Assistant. The resultant vacancy is filled up by appointing Smt. R. Gupta by promotion on temporary basis. If the temporary post of Confidential Asst. is subsequently abolished, the present incumbent in the post of Sr. Stenographer,

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					Smt. R.Gupta, will have no post to occupy. She may have to be adjusted against any vacancy in future even in the lower grade of UDC.
18.	Sr. Hindi Translator (5500-9000)	1	-	1	The post is permanently held by Sri M.S. Chouhan. He has been temporarily promoted against a temporary post of Assistant Director (OL) sanctioned for Census – 2001. The post is lying vacant.
19.	Assistant (5000-8000)	3	3	-	Filled up on permanent basis: - 1. Sr. R.M. Borah 2. Sri B.K. Chaudhury 3. Sri B.N. Borah
20.	UDC (4000-6000)	4	3	1	4 posts permanently held by: - 1. Smt. S. Deb Purkayatha 2. Sri L.D. Joshi 3. Sri D. Das 4. Sri B. Seal

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>Smt. S. Deb Purakayatha and Sri L.D. Joshi have been promoted temporarily against 2 posts of Census – 2001.</p> <p>Sri D. Das and Sri B. Seal are holding 2 permanent posts of UDC at present.</p> <p>As against 2 resultant vacancies, one has been filled up by giving temporary promotion to one LDC (Sri Nabin Das). No other LDC is eligible and hence one resultant vacancy exists. The post of UDC is a promotional post.</p>
21.	LDC (3050-4590)	5	5	-	<p>The following are permanent holders of 4 posts: -</p> <ol style="list-style-type: none"> 1. Sri Nabin Das 2. Sri S. Rabha 3. Sri B.C. Gogoi 4. Smt. K. Deka <p>The seniormost person Sri Nabin Das has been allowed to officiate against a resultant vacancy in the grade of UDC.</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant posts	Remarks/Present status of recruitment.
1	2	3	4	5	6
					Two vacant posts of LDC stand filled up by appointing on deputation basis the following persons:- 1.Sri M. Wari 2.Md. T. Ahmed
22.	Gestetner Operator (3050-4590)	1	1	-	Filled up permanently Shri Ramashis Rai
23.	Daftry (2610-3540)	3	3	-	Permanently filled up. Incumbents are :- 1.Sri B.K. Hazarika Holding the post of HPMO on deputation. 2.Sri U.C. Hazarika 3.Sri S. Haloi
24.	Peon (2550-3200)	8	8	-	Filled up permanently and holders of the posts are:-

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					<p>1. Sri B. Haloi 2. Sri S. Bharali 3. Sri R. Bejbaruah 4. Sri P. Medhi 5. Sri Atul Baruah 6. Sri H. K. Chamua 7. Smt. B. Maya Chetry 8. Sri R. Hazang 9. Sri Bhusan Deka</p> <p>Sri B. Haloi has been promoted on adhoc basis against a temporary post of Dafty created for Census -2001.</p> <p>Sri S. Bharali has been temporarily promoted against the deputation vacancy. The resultant vacancy has been filled up by appointing Sri S. Deka on casual basis for a short period.</p>
25.	Chowkidar (2550-3200)	6	6	-	<p>1. Md. Sofik Ali 2. Sri Bipul Saikia 3. Sri Dharani Deka 4. Sri Girish Deka 5. Sri Sunanda Das 6. Sri Rup Kumar Das</p>

Sl. No.	Name of the Post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
26.	Staff Car Driver (3050-4590)	1	1	-	Sri B.B. Rabha
27.	Sweeper (2550-3200)	1	1	-	Sri. Uma Das
CANTEEN					
28.	Coupon Clerk (3050-4590)	1	1	-	Sri Deben Das
29.	Cook (3050-4590)	1	1	-	Sri Hiteswar Hazarika
30.	Tea Maker (2610-4000)	1	1	-	Sri Dipak Medhi
31.	Bearer (2610-4000)	1	1	-	Sri Prasanna Das
32.	Wash Boy (2550-3200)	1	1	-	Sri Hasher Ali

Sl. No.	Name of Post	No. of Sanctioned posts (As per SIU)	No. of Posts filled up	Vacant Posts	Remarks/Present status of recruitment.	
1	2	3	4	5	6	
DDE System						
33.	Sr. Supervisor (5500- 9000)	3	3	-	1. Sri Kumud Kalita 2. Sri S. Mukherjee 3. Sri B. Barpujari	
34	Jr. Supervisor (5000- 8000)	9	9	-	1. Sri M.J. Tamuly 2. Sri Dilip Kr. Das 3. Sri Jayanta Ghosh 4. Sri Nayan Borah 5. Sri M. Rajkhowa 6. Sri A. Talukdar 7. Smt. R. Sharma 8. Smt. P. Medhi 9. Sri Ratul Das 10. Sri Biren Das	9 (nine) permanent posts of Jr. Supervisor stand filled up with the following incumbents: Shri M.J. Tamuly, Sr. most Jr. Supervisor has been promoted temporarily on adhoc basis as Sr. Supervisor against 2001 Census posts. The resultant vacancy has been filled up by promoting on adhoc basis Sri Biren

						Das, DEO-B. Thus at present all posts are filled up.
35	DEO Gr. 'B' (4500- 7000)	45	38	7	1.Sri Biren Das 2.Sri Samarjit Das 3.Sri S.Dutta 4.Sri D.Bordoloi 5.Md. A.Motin 6.Sri D.K.Baruah 7.Sri H.Boro 8.Sri M.Roy 9.Sri S.M. Bora 10.Sri M. Basumatary 11.Sri Nimai Roy 12.Sri B. Phukan 13.Smt. Deepa Baruah 14.Sri Ajit Kalita 15.Sri S. Mudai 16.Smt. M. Devi 17.Sri T.N. Baruah 18.Sri Nitul Dutta 19.Sri D. Chakraborty 20.Sri Bipul Kalita	Out of 45 sanctioned posts 39 have been filled up on permanent basis with the following incumbents: Sri Biren Das, Sr. most DEO-B has been promoted temporarily on adhoc basis as Jr. Supervisor against the post vacated by Shri M. J. Tamuly, Jr. Supervisor and Shri Das will be reverted back to his original post i.e. DEO-B on reversion of Sri Tamuly. Thus there are 39 DEO-Grade-B holding the posts permanently. Although there are seven vacancies in the post of DEO-B, six vacancies are regular and one is resultant.

Sl. No.	Name of the post	No. of sanctioned posts (As per SIU)	No. of posts filled up	Vacant posts	Remarks/present status of recruitment
1	2	3	4	5	6
					21. Sri U. Talukdar 22. Sri B. Thakur 23. Sri N. Hazarika 24. Smt. M.M. Chetia 25. Sri A. Rabha 26. Smt. B. Sonowal 27. Sri P. Borkakoti 28. Sri Kishor Deka 29. Sri B. Naidu 30. Sri Nanju Englalng 31. Sri S. Morang 32. Sri R. Bhuyan 33. Sri M.N. Sharma 34. Sri P. Haloi 35. Sri Jiten Nath 36. Sri U. Saikia 37. Md. Z. Hussain 38. Sri Dipak Baruah 39. Sri Pradeep Das 40. Vacant 41. Vacant 42. Vacant 43. Vacant 44. Vacant 45. Vacant
36.	Loader (2550-3200)	4	4	-	1. Sri Kameshwar Deka 2. Sri Sadananda Sharma 3. Sri H. Talukdar 4. Sri Tapeswar Deka
	Total	181	163	18	

N.B.

- I. Data Entry Operator, Grade 'B' is a highly technical post for which following qualifications are required.
 1. Graduate with Science, Mathematics, Commerce, Economics and Statistics as a subject.
 2. One year Certificate of proficiency in Computer from a recognised Govt. institution preferably 'O' Level Certificate recognised by Department of Electronics in Govt. of India.
 3. A speed not less than 8000 key depression per hour for data entry work.
 4. Should qualify in the Personal Computer skills test.

The vacancies of DEO, Grade 'B' have been circulated for filling up on deputation basis.

- II. There are some temporary resultant vacancies on core side due to temporary promotion of the incumbents against temporary census posts. After expiry of sanction period and on abolition of census posts, the incumbents who have been promoted will be reverted to their original posts on core side in which they permanent lien.

STATEMENT - II

Name of the DCO: ASSAM, Guwahati
 CENSUS POSTS

Status of the posts sanctioned for Census Operation - 2001 as on 1.3.2002

Sl. No.	Name of the Post	No. of sanctioned posts	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
1.	Joint Director Of Census Operations (10000-15200)	1	-	1	To be filled up by ORGI.
2.	Assistant Director Of Census Operations (G) (8000-15200)	1	-	1	To be filled up by ORGI.
3.	Research Officer (Map) (8000-15200)	1	1	-	The post has been filled up by transferring Sri K.C.S. Bhagabati from DCO, Bihar.
4.	Statistical Investigator Gr. II (5500-9000)	1	1	-	The permanent and regular incumbent Sri T.D. Sinha has been promoted against this temporary / short term post of SI Gr. II extended w.e.f. 31.1.2003.

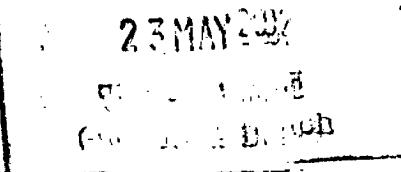
Sl. No.	Name of the Post	No. of sanctioned posts	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
5.	Assistant (5000-8000)	2	2	-	<p>The following regular incumbents in the grade of UDC on core side have been promoted on adhoc basis: -</p> <ol style="list-style-type: none"> 1. Smt. S.D. Purkayastha 2. Sri L.D. Joshi
6.	Confidential Assistant (5500-9000)	1	1	-	<p>The following incumbent holding permanently the post in the permanent post of Sr. Stenographer on core side has been promoted: -</p> <ol style="list-style-type: none"> 1. Sri K.N. Gogoi
7.	Sr. Drawing Assistant (6500-10500)	1	1	-	<p>Filled up by temporary and adhoc promotion of Smt. S.K. Chetia, permanent Sr. Dratsman from core side.</p>
8.	Sr. Technical Assistant (Printing) (5500-9000)	-	-	-	<p>The post has been abolished w.e.f. 1.3.2002.</p>

Sl. No.	Name of the Post	No. of sanctioned posts	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
9.	Sr. Draftsman (5500-9000)	1	1	-	The post has been filled up by promoting on temporary basis of Smt. Biju Mahanta (permanent Draftsman)
10.	Printing Inspector (5000-8000)	1	1	-	Sri S.N. Rabha has been promoted on temporary basis from the post of Proof Reader (regular incumbent).
11.	Statistical Investigator Gr. III (5000-8000)	5	5	-	<p>The posts have been filled up by promoting on adhoc basis. The following regular incumbents from the grade of Sr. Compiler on core side:-</p> <p>1. Sri K.K. Bhattacharjee 2. Sri B.C. Kakoty 3. Sri N.C. Barman 4. Sri H.N. Kalita 5. Sri C. Chakraborty</p>
12.	Compiler (4000-6000)	2	2	-	Out of 8 posts originally sanctioned for Census – 2001, 6 posts have been abolished, and 2 posts have been extended w.e.f. 1.3.2002 upto 31.1.2003. These two posts have been filled up by deputation temporarily. Two deputationists are:-

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Sl. No.	Name of the Post	No. of sanctioned posts	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
					1. Sri Rupram Baruah 2. Sri N. Talukdar
13.	UDC (4000-6000)	2	2	-	Filled up by deputation:- 1. Smt. Caroline S. Dhar 2. Sri Gopal Deka
14.	Daftary (2610-3540)	1	1	-	Sri B. Holoi Temporarily promoted from the post of Peon (regular incumbent).
15.	Assistant Director (OL)	1	1	-	Sri M.S. Chauhan Temporarily promoted from the post of Sr. Hindi Translator (regular incumbent).
16.	Hindi Typist (3050-4590)	-	-	-	1 post sanctioned for Census - 2001 has been abolished.
17.	Assistant Director (Data Centre)	1	-	1	To be filled up ORGI.

Sl. No.	Name of the Post	No. of sanctioned posts <small>(Cens)</small>	No. of posts filled up	Vacant Posts	Remarks/Present status of recruitment
1	2	3	4	5	6
18.	Statistical Assistant (SI Gr. III) (5000-8000) (Data Centre)	2	2	-	The posts have been filled up by promoting the following 2 regular incumbents temporarily from the grade of Sr. Compiler on core side: - 1. Sri D. Hazarika 2. Sri D.B. Baruah.
19.	Senior Supervisor (5500-9000) (Data Centre)	1	1	-	1. Sri M.J. Tamuli
	TOTAL	25	22	3	



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Filed by the applicant
through Sri G.N.
Chakrabarty advocate
on 23-5-02

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.69/2002

IN THE MATTER OF:

Sri Tara Charan Kalita

vs

Union of India & Others

AND

IN THE MATTER OF:

Rejoinder submitted by the applicant in
reply to the written statement submitted
by the respondents.

The above named applicant-

Most Respectfully beg to state as under:

1. That your applicant duly received the copy of the written statement and carefully gone through the same and understood the contents thereof. The applicant categorically deny the preliminary objections and submissions made in the written statement and further beg to state that there was a specific direction in the judgment and order dated 6.2.2002 passed in O.A. 142/2000 by the Hon'ble Tribunal for absorption of the applicant against the regular available existing vacancies, as such the preliminary objection of the respondents that the Original Application is hit by promissory estoppels is not maintainable. Moreover, contention of the respondents made in the preliminary submissions are also contrary to the various orders, decisions of the respondent Union of India so far similarly circumstanced retrenched employees are concerned and also contrary to the orders, judgments and decisions of the Hon'ble Tribunal, High Courts and Apex Court.

It is most humbly and respectfully submitted that the present respondent-Union of India in all earlier occasions when

the similar statutory recruitment rules were available so far Group C Census Employees are concerned, even then the Director of Personnel & Training (in short D.O.P.T.) granted permission and agreed for regularisation of the ad hoc census employees in relaxation of the recruitment rules. It is further submitted that this Hon'ble Tribunal in O.A. 142/2000 passed a specific direction for regular absorption of the applicant in the available existing vacancies as such the contention of the respondents that direction passed in O.A. 142/2000 only for temporary vacancies of 2001 is a wrong interpretation of the judgment dated 6.2.2002. In the circumstances respondent Union of India is required to act in terms of the judgment dated 6.2.2002 and are duty bound to appoint the applicant in the suitable posts as per direction contained in the judgment referred to above.

PARAWISE REPLY OF THE WRITTEN STATEMENT.

1. That your applicant categorically deny the contention of paragraphs 1,2,4,5 and 6 of the written statement and further beg to state that a mere reading of the judgment and order dated 6.2.2002 would make it clear that this Hon'ble Tribunal passed a categorical direction for regular absorption of the applicant in the existing vacancies in the light of the direction contained in the order dated 7.6.2001 passed in W.P(c) No. 2531-2537 of 2001. As such, contention of the respondents that the applicant are liable to be absorbed only against short term vacancies of 2001 census is contrary to the order of the Hon'ble Tribunal dated 6.2.2002.

It is further submitted that as per their own document Annexure 9,10 wherein a categorical admission made by the respondents particularly Deputy Director of Census Operation that there are vacancies of Assistant compiler LDC, Computer (Compiler) and UDC. It is further admitted by the respondents in their

written statement showing in page no. 60 that altogether there are 12 permanent post of Assistant Compiler and there are 7 temporary posts, out of which 4 have been filled up by deputation and three vacancies in the grade of Assistant Compiler are still available. Out of which two are resultant vacancies and one is permanent vacancy reserved for OBC for which the recommendation of Staff Selection Commission is awaited. Therefore it is quite clear from their own statement that at lease one regular post of Assistant Compiler belonging to OBC category is available, as such respondents have no difficult to absorb the applicant number one against the permanent post, who belong to OBC category in terms of the judgment and order dated 6.2.2002. Moreover there are two other temporary posts are still available against which other two applicant could have been accommodated by the respondents. But the respondents in violation of the order dated 6.2.2002 passed the impugned order of termination in respect of the present applicant. It also appears that two posts of draftsman in the pay scale of 5000-8000 are still available with the establishment of the respondents but those posts have not been filled up till date. Moreover Smti Biju Mahanta and Smti R.Mazumdar have already promoted to the cadre of Senior Draftsman as per the statement of the respondents. As such two posts of Draftsman are available with the respondents. So far post of UDC are concerned it is stated by the respondents that there was four sanctioned post of UDC and three posts were filled up and at present one post is vacant. Similarly one Sri Nalini Das, LDC has already been promoted against one of the resultant vacancy of UDC. As such one post of LDC is lying vacant under the respondents. Furthermore the respondents very recently issued an advertisement inviting applications for filling up of few posts of Data Entry Operator Grade B in the scale of Rs. 4500-7000 in the Employment News dated 6-12 April 2002 on deputation basis. In the said advertisement it is stated that initially appointment on deputation will be for a period of one year or till such time the post are filled up by

direct recruitment subject to approval from the screening committee whichever is earlier. Therefore it is quite clear that a few post of Data Entry Operator are lying vacant in the establishment of the respondents. It is also submitted by the respondents that out of 45 sanctioned post 39 posts have been filled up on permanent basis, as such there are 6 vacancies are available with the respondents for consideration for appointment to the post of Data Entry Operator. Therefore respondents should consider the appointment of the applicant to the cadre of Assistant compiler, Computor, LDC, UDC and also to the cadre of Data Entry Operator in terms of the judgment and order dated 6.2.2002 passed in O.A. No. 142/2000. But surprisingly the respondents without considering the case of the applicant for regular absorption issued impugned order of termination in total violation of the judgment and order referred to above. It is quite clear from their documents submitted to the written statement that posts were available with them but issued the order of termination on the pretext that the direction of the Hon'ble Tribunal was passed only for consideration of absorption of the applicant against the temporary post of 2001 Census. It is stated that question of appearing for interview for the applicant before the Staff Selection does not arise at this stage as the applicant were duly selected and appointed through the Selection Committee after the names were duly sponsored by the local Employment Exchange following a valid requisition submitted by the respondents before the Employment Exchange. As such, the applicant cannot be subjected to appear before the Staff Selection Commission for regularisation. It is submitted that following the direction passed by this Hon'ble Tribunal in the judgment and order dated 31.8.1997 passed in O.A. No. 284/97 a large number of Census employees who were initially recruited through Employment Exchange for 1991 Census along with the applicant and prior to the recruitment of the applicant have already been regularised without the approval of the Staff Selection commission. In this connection

the applicant beg to refer to the order of appointment issued under Office Order No. DCO(E)24/97/7570 dated 27.6.2000 whereby three persons were appointed on regular basis to the cadre of Assistant Compiler. It is further submitted that many of the Assistant Compilers recruited during the year 1991 Census after discontinuation of the post of Assistant Compiler they were appointed as Data Entry Operator on ad hoc basis and thereafter they have been regularised. As such contention of the respondents that applicant cannot be appointed to the post of Data Entry Operator is contrary to their own decision which would be evident from the Office Order bearing No. DCO (E)205/92/Pt. II/67 79 dated 3.12.1996.

It would further be evident from the letter bearing No. DCO (E)7/78/Vol.IX Dated 20.10.1997 the Director of Census Operation, Assam strongly recommended for regular absorption of ad hoc LDC, Assistant Compiler appointed during 1991 Census to the Registrar General India, New Delhi although they could not qualify in the Staff Selection Commission examination. Those ad hoc employees had been recommended for regular absorption and ultimately they were regularised in the cadre of LDC, Assistant Compiler which is further evident from the letter dated 27.6.2000. As such contention of the respondents that applicant cannot be regularised in violation of the recruitment rule is contrary to their own decision and as such they cannot deny the benefit of regular absorption to the applicant against the available existing vacant post of Assistant Compiler, LDC, Data Entry Operator.

That your applicant relied on the documents submitted to the rejoinder in O.A. 68/2002 (Bimalananda Das & Ors. Vs. Union of India & Ors.)

2. That your applicant denies the statements made in paragraphs 7,8, 9,10,11,12,12,14,15,16 & 17 and further begs to state that deputationists who are working as computer in fact junior to the applicant have been retained in service while services of the applicant have been terminated duly on the ground that applicant

were appointed following the Court order. It is further submitted that the respondents have deliberately misinterpreted the judgment and order dated 6.2.2000 only to deny the benefit of regular absorption, it is specifically observed by the Hon'ble Tribunal that the retrenched employee should be first absorbed in the existing vacancies and only thereafter the remaining post should be filled up as per rule. As such, contention of the respondents that the available posts should be filled up through Staff selection commission is contrary to the order dated 6.2.2000 passed by this Hon'ble Tribunal.

In the facts and circumstances stated above, the application deserves to be allowed with costs.

VERIFICATION

I, Shri Tara Charan Kalita, Son of Sri Samudra Kalita, aged about 34 years, resident of village Bhathijiakur, P.O. Kukurmara, District Kamrup, applicant in the instant application do hereby declare that the statements made in paragraph 1 to 3 are true to my knowledge and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material fact.

And I sign this verification on this the 23rd day of May, 2002.