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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 70/02

R.A/C.P No.

E.P/M.A No.

1. Orders Sheet.....Pg. 1.....to. 1.....

MP 80/02 order page 1 2
2. Judgment/Order dtd. 19/9/2002.....Pg. 1.....to. 7 Allowed common order
at 2/62, 69, 69, 70 & 151/02

3. Judgment & Order dtd.....Received from H.C/Supreme Court

4. O.A.....70/02.....Pg. 1.....to. 34.....

5. E.P/M.P. 80/02.....Pg. 1.....to. 5.....

6. R.A/C.P.....Pg.to.

10/3 to the MP 80/02 page 1 to 10
7. W.S.....Pg. 1.....to. 20

Add. W/S page 1 to 8
8. Rejoinder.....Pg. 1.....to. 19

9. Reply.....Pg.to.

10. Any other Papers.....Pg.to.

11. Memo of Appearance.....

12. Additional Affidavit.....

13. Written Arguments.....

14. Amendment Reply by Respondents.....

15. Amendment Reply filed by the Applicant.....

16. Counter Reply.....

SECTION OFFICER (Judl.)

Sahit

22/11/17

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.- Loharaghat,
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 R

CHOWDHURY. J. (V.C.)

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

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

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

7.6.2001 is reproduced below:

"While dismissing the writ petitions, we hereby direct the petitioners to carry out the directions given by the CAT within two weeks. However, we, as a matter of abundant caution, make it clear that the petitioners would offer the vacancies to the 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. These directions would be applicable to all the retrenchees 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.....

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 retrenchees according to length of service. The person with longer length of service in a particular category was to be offered job first than other retrenchees. After exhausting the retrenchees, if more vacancies came to surface, the authorities were directed to fill up the posts by other methodology provided by the Recruitment Rules. The High Court clarified that order and stated that the Judgment and Order of the High Court dated 7.6.2001 would be applicable

to.....

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

was.....

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

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

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

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

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

Notification.....

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

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

(b) The retrenched employees of Census Organization shall be shall be exempted from the age-limit prescribed in the relevant Service Rules governing the posts in which they are to be appointed. This concesssion 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 amend or revise a judicial decision. The functional utility of the Constitutional edifice is needed to be ensured and not to be downgraded. The High court order in clear terms observed that only after exhausting the.....

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

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

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

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

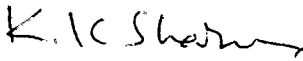
17. The plea raised by the respondents to avert the decision of the court is incompatible and antithetic to rule of law. The plea of administrative expediency will not provide lee way on the authority to by pass the decision of the competent court. Needless to state that those who rouse the hornet's 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)
ADMINISTRATIVE MEMBER


(D. N. CHOWDHURY)
VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

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

Original Application No. 7.C of 2002.

Ratna Bhattacharjee & Another

..... Applicants

-Vs-

Union of India & Others

..... Respondents

INDEX

	Particulars	Page no.
	Application.....	1-12
	Verification.....	13
8.	Annexure A ₁	14-15
	Annexure A ₂	16-17
	Annexure A ₃	18-19
6.	Annexure A ₄	20
7.	Annexure A ₅	21
8.	Annexure A ₆	22-29
9.	Annexure A ₇	30-33
10.	Annexure A ₈	31
11.	Annexure A ₉	32-33
12.	Annexure A ₁₀	34.

Date of filing or date

of receipt by post:

Requisition No.

Signature of the Registrar:

Filed by:

W.P. Banerjee

Advocate

Date: 31-03-2002

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

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

Original Application No. ^{To} of 2002.

BETWEEN:

1. Smti. Ratna Bhattacharjee
2. Sri Karuna Ram Das

All working as Computer/ Assistant Compiler respectively in
the Office of the Director of Census Operations, Assam,
Guwahati (*since terminated*)

.....Applicants

-And-

1. Union of India,
Through the Secretary to the Government of India,
Ministry of Home Affairs, New Delhi.
2. Registrar General of India,
2/A Man Singh Road, New Delhi.
3. Director of the Census Operations, Assam,
G.S. Road, Guwahati.
4. Deputy Director Census Operation, Assam, Guwahati.
5. Assistant Director of Census Operation, Assam, Guwahati.

.....Respondents.

Ratna Bhattacharjee

01-03-2002

21

DETAILS OF THE APPLICATION:

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

That this application is directed against orders vide DCO(E)285/93/Pt/15/13002 dt. 17.9.2001 and No. DCO(E)285/93/Pt./15/13010 dt. 17.9.2001 under the signature of the Respondent No. 5 purportedly in compliance with the directions of the Hon'ble Tribunal and thereby appointing/re-engaging the Applicants till 28.2.2002 or up to the date on which the sanction of the post expires, whichever is stipulating the condition therein that the services on or before 28.2.2002 and orders No. DCO(E)50/99/Pt.I/2061 dt. 28.2.2002 and DCO(E)50/99/Pt.I/2069 dt. 28.2.2002 issued under the signature of Respondent No.4 thereby terminating the services of the applicants respectively.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal.

3. Limitation:

The applicants further declare that the application is filed within the limitation period prescribed under section 21 of the Central Administrative Tribunal Act, 1985.

4. Facts of the case:

The facts of the case in brief are given below:

- 4.1. That the applicants are citizens of India and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India.
- 4.2. That the applicants are aggrieved by the order of their re-engagement in service as Computer (now designated as Compiler) and Assistant Compiler under the Respondents restricting the same only to 28.2.2002. The applicants are also aggrieved by the order of termination dt.28.2.2002. As such, they have filed this application. The applicants earlier had filed the O.A. 385/2000 and C.P. No. 6/2001 jointly for their common causes and they are joining again by this common application for the remedy as indicated above. Therefore, they may be permitted to join by the application and S. 4(5)(a) of the CAT Procedure Rules, 1987.
- 4.3. That the applicants are eligible for appointment in Group-C post. Pursuant to sponsoring of their names for appointment against Group-C posts under the Respondents and pursuant to their suitability for the post of Computer assessed by the Selection Committee (DPC) held for the purpose, they was appointed as

Ratna Bhattacharya

2

Computer during the Census operation of 1991. After their appointment, they discharged their duties to the satisfaction of all concerned. However, their services were terminated w.e.f. 31.12.1993. It will be pertinent to mention here that some other persons were also appointed to various Group-C posts like that the applicants under the Respondent No. 3&4 and their services were also terminated w.e.f. 31.12.1993.

- 22
Ratna Bhattacharya
- 4.4 That out of the aforesaid terminated employees some of them along with the applicants challenged the said order of termination vide No. DCO (E) 97/80/ Vol.I/9922-68 dated 21.12.93 in this Hon'ble Tribunal and the said application was registered as O.A. No. 269/93. The Hon'ble Tribunal after a threadbare consideration of the matter, disposed of the said 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 following the judgment of the Hon'ble Supreme Court in *Union of India - Vs - Dinesh Kumar Saxena*, reported in (1995) 2 AIC 585. The Hon'ble Tribunal, however, held that the respondent No.3 would take action to appoint the applicants in any regular vacancy which might arise in near future if the applicants were otherwise qualified and eligible for those post and in that event the applicants might individually approach Respondent No. 3.

The applicants crave the leave of this Hon'ble Tribunal to rely upon and to produce the copy of the order dated 5.6.98 passed in O.A. No. 269/93 at the time of hearing of this application.

- 4.5 That the applicants along with others were expecting their appointment in terms with the directions given by this Hon'ble Tribunal but in violation of the order dated 5.6.98 the Respondents made attempts to fill up vacant posts instead of appointing the retrenched employees as stated here in above.
- 4.6 That some of the applicants of the O.A. No. 269/93 under the compelling circumstances again approached Hon'ble Tribunal by way of filing O.A.No. 161/99 and O.A. No.76/2000 under section 19 of the Central Administrative Act, 1985. By the said applications the Petitioners there in prayed for *inter-alia* for a direction to the Respondents to appoint them against the existing vacancies available under the Director of Census Operation, Assam. The original application No. 161/99 and 76/2000 were disposed of on 16.2.2000 and 25.2.2000 by this Hon'ble Tribunal following the judgment of the Apex Court passed in the case of *Govt. of Tamilnadu and another -Vs- G. Md. Ammenudeen and Others*. reported

in 1999(7) SCC499 directed the Respondents to absorb the applicants in vacancies which will occur for the Census Operation of 2001 in suitable posts for which the applicants are entitled to absorb following the said judgment. The applicants crave the leave of this Hon'ble Tribunal to allow them to rely upon and produce the copy of said orders passed in O.A. No. 161/99 and 76/2000. *at the time of hearing.*

4.7 That in the mean time the Respondents issued circular dated 23/24.2.2000 to fill up all the vacant post in connection with 2001 Census Operation on deputation basis with the ulterior motive to deprive the retrenched employees like the applicants. Under such circumstances some of the applicants in O.A. No. 161/99 and 76/2000 namely, Shri Bimalanda Das, Harish Ch. Rabha, Nagen Rabha and Arjun Baruah (who were also applicants in O.A. No. 269/93) had filed a fresh application vide O.A. No. 142/2000 in which an interim order was passed on 8.5.2000. On the basis of said interim order dated 8.5.2000 the Respondents have reappointed all the 4 applicants vide order Memo No.DCO (E) 285/93/Pt. II/1/957-963 dated 3.10.2000. Accordingly these applicants filed a similar application, which was registered as O.A. No. 385/2000. The said application was heard along with the objection raised by the Respondents and this Hon'ble Tribunal was pleased to pass similar order on 16.1.2001 and directed the Respondents to consider the representation for absorption in the line of Hon'ble Supreme Court decision rendered in **Govt. of Tamilnadu and Another - Vs- G. Md. Ammenuddin and Others**. This was to be done within 3 weeks from the date of receipt of the representation. The Respondents, however, disobeyed the said order and as a result the applicants in O.A. No. ^{385/2000} 269/99 had to file a Contempt Petition vide C.P. No. 6/2001. However, during the pendency of the said C.P. No. 6/2001, the respondents issued the appointment letters to the applicants in compliance with the Hon'ble Tribunal's order and appointed them as Computer (now designated as Compiler) and Asstt. Compiler on temporary and ad-hoc basis upto 28.2.2002 or upto the date on which the sanction of the post expires, which ever is earlier.

The copy of the order dated 16.1.2001 passed in O.A. No. 285/2000 and the appointment letter No. DCO (E) 285/93/Pt/15/13002 dt. 17.9.2001 and No. DCO(E)285/93/Pt/15/13010 dt. 17.9.2001 are annexed hereto as Annexure A₁, A₂ and A₃ respectively.

24
Retna Bhattacharya

4.8 That in similar circumstances occurring under the DCO, Manipur, Imphal, against the termination order dated 31.12.93 some retrenched employees filed O.A. No. 24/94 and O.A. No. 60/94. The applicants in the said cases were Sri A.S. Stephen and Smti. Ng. Mekan. This Hon'ble Tribunal was pleased to pass interim orders protecting their services and on the strength of such interim orders the said two applicants continued in their services. Eventually, O.A. 24/94 was withdrawn by the applicants on getting employment elsewhere. The O.A. No. 60/94 was disposed of by a speaking order directing the respondents to consider the case of the applicants and pursuant to such direction their services has been regularized by an order dated 23.12.98.

The applicants craves the leave of this Hon'ble Tribunal to produce the copy of the said judgment and the order of regularization at the time of hearing.

4.9 That the applicants who are admittedly a retrenched census employees are entitled to get preferential consideration in the matter of reengagement / re-employment as per guidelines issued by the Govt. of India from time to time. However, the case of the applicants was never considered by the respondents for their absorption against the vacancies, both long term and short term and all their requests for such absorption against the available vacancies over the years failed in to deaf ears of the respondents.

4.10 That as explicit from the foregoing statements, the respondents are trying to avoid consideration for appointment to the retrenched employees of 1991 census operation inspite of available vacancies including the vacancies created for 2001 census operation. Even the respondents went to the Hon'ble Gauhati High Court by challenging some of the decisions rendered by this Hon'ble Tribunal. But the Hon'ble Gauhati High Court vide their common judgment dated 7.6.2001 dismissed the said writ petitions and upheld the decisions of this Hon'ble Tribunal.

4.11 That this applicants being unemployed and being at the receiving end after the termination of their services w.e.f. 31.12.93 and who are not in a position to approach this Hon'ble Tribunal to claim similar benefit as that of the O.A. No. 24/94 and 60/94 as referred to above, had no option than to accept the said offer of re-engagement limited upto 28.2.2002 in the capacity of Computer/ Asstt. Compiler. However, inspite of the fact that the said vacancy along with other vacancies have been extended and that there are other long-term vacancies to accommodate the applicants towards continuance of their services, they have has been terminated in terms of the stipulation as in order dated 17.9.2001. vide

impugned order dt. 28.2.2002 most illegally and in violation of the Court's / Tribunal's orders.

The copies of the said order dt. 28.2.2002 are annexed hereto as Annexure A, and A, respectively.

- 4.12 That the applicants most respectfully submit that apart from the 6 Nos. of vacancies of Computer / Compiler / Assistant Compiler against which Sri Bimalananda Das, Harish Chandra Rabha, Nagen Chandra Rabha, Arjun Barua, Karunaram Das and Smti. Ratna Bhattacharjee, there are as many as 12 other vacancies available with the respondent No. 3 and 4 against which the said respondents have appointed person on deputation basis borrowing from STATEFED, Govt. of Assam and also from outside. The said vacancies are regular vacancies in the establishment of the Director of Census Operation, Assam. This is evident from the fact that while the applicants alongwith 5 others has been terminated, the deputationist against the said 12 vacancies are still working without any disturbance. It is also a fact that the other 6 vacancies against which this applicants and other 5 retrenched employees were working prior to the impugned termination order dt. 28.2.2002, are also regular vacancies which are still lying vacant and or the tenure of such vacancies has been extended. A list of aforesaid 12 vacancies indicating the names of the deputationist with their designations is given below:

<u>Sl. No.</u>	<u>Name</u>	<u>Designation</u>
1.	Gopal Deka	UD
2.	T. Ahmed	LD
3.	Kerolin	UD
4.	Sima Kumari	Asstt. Compiler
5.	Cinema Medhi	Proof Reader
6.	Mahendra Warie	LD
7.	Rupram Barua	Compiler
8.	Kesab Goswami	Compiler
9.	Nripendra Talukdar	Compiler
10.	Bhupen Das	Asstt. Compiler
11.	Amiya Das	Asstt. Compiler
12.	Dipanjalee Lahkar	Asstt. Compiler

In this connection, this applicants also state that the DCO, Manipur, in challenging the order passed by this Hon'ble Tribunal filed a series a writ

26
Ratna Bhattacharya

petitions in the Hon'ble Gauhati High Court vide W.P.(c) Nos. 2531/2001 to 2537/2001. The Hon'ble Gauhati High Court vide its judgment and order dated 7.6.2001 dismissed the said writ petition and directed the respondents to carry out the directions given by the this Tribunal within 2 weeks and also clarified the position as quoted below:

"However, we, as a matter abundant caution make it clear that petitioners (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 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 al the retrenchees irrespective of whether or not they were applicants before the CAT."

In view of the above facts and circumstances, particularly while the vacancies are available and as many as 12 Nos. of deputationist from outside are still allowed to continue against the vacant post, the impugned termination order dt. 28.2.2002 is illegal, arbitrary, and violative of the Hon'ble High Court's order 7.6.2001. The respondents have not challenged the said order passed by the Hon'ble Gauhati High Court.

A copy of the Hon'ble High Court's order dt. 7.6.2001 is annexed hereto as Annexure A₆.

4.13. That the applicants respectfully submit that the respondents are confining their arguments regarding the engagement of the retrenchees against short term vacancies against census operation and the ^{appointment} termination orders are also accordingly made. But the facts remain that there are large number of long-term vacancies under the DCO's in the North East Region including Assam and also in different states in India. Therefore, the non-consideration for regular appointment of such retrenchees like the applicants is a direct violation of the direction given by the Hon'ble Apex Court in addition to the order of the High Court and this Hon'ble Tribunal.

4.14. That the applicants states that the respondents by their letters dt. 14.2.2000 while banning appointments from open market laid down the criteria of filling up of Group C and D posts either by promotion or on deputation. As stated

22
above in fact many vacancies have been filled up on deputation and by way of ad-hoc promotion and in those cases no such plea has been taken as has been taken in the case of the applicants. Such plea is in respect of alleged continuation of the post only upto 28.2.2002. As already stated above, the applicants are eligible to be appointed against any group C post and even assuming but not admitting that the services of the applicants cannot be continued beyond 28.2.2002, they can very well be accommodated against other available vacancies. Even in letter dated 14.2.2000, it has been provide that if in the case of appointment of officials against Census of India - 2001, post have to be regularized later on availability of long-term vacancies due to retirement etc, separate order of their regularization must be issued.

The copies of letters dt. 14.2.2000 are annexed hereto as Annexure A₇ and A₈ respectively.

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- 4.15 That the Govt. of India in the Deptt. of Personnel and Administrative Reforms issued certain guidelines regarding re-deployment of retrenched employees in terms of which also the case of the applicants is required to be considered. It will be pertinent to mention here that initially the benefit as extended to such employees who have rendered at least 3 years regular continuous service. Now the said benefits have been extended even to the retrenched temporary employees who have put in less than three years of continuous service. Such a scheme has been made effective retrospectively from 1.1.92.

A copy of the said scheme is annexed hereto as Annexure A₉.

- 4.16 That the applicants also submit that there are also vacancies in Group C and D which have arisen due to the death/ retirement. Such vacancies arising out of such death/ retirement are also lying vacant against which the applicants may be appointed on regular basis.
- 4.17 That the applicants state that as already stated above the respondents have wrongly interpreted the orders of the Hon'ble Court's /Tribunal and thereby have sought to deprive the applicants from the regular absorption and just to show that the said orders have been complied with, the impugned order dt. 19.7.2001 has been issued as eyewash after depriving the applicants even for such appointments pursuant to the orders of this Hon'ble Tribunal although

20
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there was no stay order against those orders from any competent court of law. The respondents instead of being model employer have adopted the policy of hire and fire that is opposed to the constitutional mandate and the law laid down by the Apex Court.

- 4.18 That the applicants state that they have already been exploited in the matter of employment and it was only after a long fought battle of litigation, they could get the appointments by way of issuance of the order dated 17.9.2001. In terms of the said order and order dt. 28.2.2002 if the termination order is allowed to stand and continue, they will suffer irreparable loss and injury. They cannot be subjected to such illegality time and again without any effort for their adjustment / absorption against the vacancies available throughout the country in the Census Deptt. The plea taken by the Respondents for non-availability of vacancies is a lame excuse and is not a fact. Infact there are good number of vacancies as explained hereinabove. In a similar case of this nature, this Hon'ble Tribunal vide order dt. 26.2.2002 passed in O.A. No. 62/2002 has been pleased to direct the respondents not to oust the applicants from service. The case of the applicants is also similar to that case.

*The copy of the said order dt. 26.2.2002
passed in O.A. No. 62/2002 is annexed hereto
as Annexure A*
10

- 4.19 That it is in the above circumstances the applicants have filed the present application seeking urgent and immediate relief including the interim relief not to oust the applicants from service.
- 4.20 That the applicants state that it is a fit case for passing an interim order as has been prayed for. The balance of convenience lies in favour of the applicants for passing such an interim order. This application has been made bonafide and for the ends of justice.

5. Grounds for relief with legal provisions:

- 5.1 For that the impugned order is per se illegal in so far as it restricts the appointment of the applicants upto a certain date in as much as same is opposed to the spirit of the judgments of this Hon'ble Tribunal affirmed by the Hon'ble High Court.
- 5.2 For that as per the scheme formulated towards absorption of the retrenched

census employees, the case of the applicants is required to be considered instead of giving them appointment against short term vacancies and that too without considering their case against the said post for which extension has been granted or against the permanent vacant posts.

- 5.3 For that the respondents instead of being a model employer cannot resort to hire and fire policy in violation of the constitutional mandate and the law laid down by the Apex Court.
- 5.4 For that the applicants being retrenched census employees, they are entitled to get preferential treatment in the matter of appointment instead of confining their such appointment for a limited period only.
- 5.5 For that the action of the Respondents is totally opposed to the spirit of the orders passed by this Hon'ble Tribunal and affirmed by the Hon'ble High Court.
- 5.6 For that it was never the intention of the Hon'ble Court's to provide employment of the applicants only against short-term vacancies in as much as the census operation is a permanent Department and the vacancies are operated to obtain the goal sought to be achieved through the census operation. Thus, the cases of the applicants are required to be considered even against the permanent vacancies just not confining to Assam Census Deptt. only.
- 5.7 For that the applicants are entitled to get their absorption against any available vacancy throughout the country, but the Respondents having confined their case only to Assam Census Deptt. have acted against the said judgments of the Hon'ble Courts. As such, the impugned termination orders dt. 28.2.2002 while good number of vacancies are available, is grossly arbitrary and illegal, more particularly while the deputationist are allowed to continue. This is discriminatory and violative of provisions of Art. 14, 16 and 21 of the Constitution of India.
- 5.8 For that impugned termination orders dt. 28.2.2002 have been issued most deceitfully and hastily at the behest of some vested interest although the vacancies/ posts are further extended and not abolished.
- 5.9 For that the case of the applicants having not been considered in its true perspective, the respondents are guilty of committing contempt of this Hon'ble Tribunal. The respondents have even ignored their own circular dt. 14.2.2000 (Annexure A₇ and A₈) in terms of which the case of the applicant is required to

- 31
Retro-attach
- 8.3 To direct the respondent to regularize and or absorb the applicants against long term vacancies and to maintain continuation of their services;
- 8.4 For cost of this application;
- 8.5 For any other relief or reliefs to which the applicants are entitled under the facts and circumstances of the case as deem fit and proper by this Hon'ble Tribunal.

9. Interim orders prayed for:

In the facts and circumstances stated above and during the pendency of this application, the applicants pray for an interim relief for stay of the operation of the impugned term order dt. 28.2.2002 in Annexure A¹ and A² and stay that part of the orders dt. 17.12.2001 (Annexure A³ and A⁴) by which the appointment of applicants have been terminated only upto 28.2.2002⁵ and or to grant any other interim relief so as to protect the interest of the applicants and to give them continuation of their service.

10. This application has been filed through advocate.

11. Particulars of the Postal order in respect of the application fee:

- (i) No Of IPO : 7G547807
(ii) Date : 28.2.2002
(iii) Issued from GPO
(iv) Payable at : Guwahati

12. List of enclosures:

As stated in the index.

VERIFICATION

We, Smti Ratna Bhattacharjee, D/O- Late Mukunda Prasad Bhattacharjee, aged about 42 years, resident of No.5 Ferry Ghat Colony, Pandu, Guwahati-12, District: Kamrup, Assam; AND Sri Karuna Ram Das, S/o - late Holi Ram Das, P.O. & Village: Borkhala, District: Nalbari, Assam do hereby solemnly affirm that the statements made in paragraphs 2, 3, 7, 13, 16 to 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 are true to my knowledge and those made in paragraphs 1, 4, 11, 14, 15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100 being matter of records are true to my information derived therefrom and as per legal advice. We have not suppressed any material facts.

And we sign this verification on the 15th day of March, 2002.

Ratna Bhattacharjee.

DEPONENTS

PLACE:

DATE:

To,

The Registrar, CAT,

Guwahati Bench.

33

14

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.385 of 2000

Date of decision: This the 16th day of January 2001

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

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

1. Smt Ratna Bhattacharjee,
D/o Late Mukunda Prasad Bhattacharjee,
Resident of Ferryghat Colony, Pandu,
Guwahati.
2. Shri Karuna Das,
Son of Late Hali Ram Das,
P.O. & Vill. - Barkhala,
Nalbari, Assam.

.....Applicants

By Advocate Dr (Mrs) M. Pathak.

- 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,
2/A Man Singh Road,
New Delhi.
3. The Director of Census Operations, Assam
Government of India,
Ministry of Home Affairs,
Guwahati.
4. Shri M.R. Das,
Director of Census Operations, Assam,
Government of Assam,
Ministry of Home Affairs,
Guwahati.

.....Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

.....

O R D E R (ORAL)

CHOWDHURY.J. (V.C.)

The applicants are two in number who are retrenched employees of the Census Department. They have assailed the Circular issued by the Director of Census Operation on 23/24.2.2000 for filling up the posts of Computer, Lower Division Clerk, Assistant Compiler, Proof Reader in

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connection with the 2001 Census operations. By the
aforementioned communication, the department has sought to
fill up the posts on deputation basis.

2. Dr (Mrs) M. Pathak, learned counsel for the applicants
submitted that a number of decisions have been rendered by
this Tribunal for absorbing such persons in the light of the
decision rendered by the Supreme Court in Government of
Tamilnadu and another vs. G. Md. Ammendden and others,
reported in (1997) 7 SCC 499.

3. We have also heard Mr B.S. Basumatary, learned Addl.
C.G.S.C. Upon hearing the learned counsel for the parties,
we are of the opinion that the present applicants who are
similarly situated are also entitled to similar benefits and
following the decisions mentioned above, we direct the
respondents to consider the case of these two applicants for
their appointment in the light of the directions given by
this Tribunal, more particularly in O.A.No.415 of 1999, O.I.
Singh vs. Union of India and others disposed of on 20.1.2000.
The applicants may also submit representation before the
authority ^{detailed} ^{factual matrix} giving the ~~fact situation~~ within two weeks from the
date of receipt of this order and on receipt of the
representation, the respondents shall take necessary measures
for consideration of their case within three weeks from the
date of receipt of the representation.

4. Subject to the above observations the application
stands allowed. There shall, however, be no order as to
costs.

Sd/ VICE CHAIRMAN

Sd/MEMBER (Adm)

Certified to be true Copy

प्रमाणित प्रतिलिपि

Section Officer (A)

साधुवाल अधिवक्ता (न्यायिक शाखा)
Central Administrative Tribunal

अधीनस्थ शाखा, अहमदाबाद
Central Bench, Gandhinagar

पञ्जाबी न्यायिक, अहमदाबाद
Punjabi Bench, Gandhinagar



16



फोन } Director : 547396 (R)
Phone } 302121 (R)
Off. supdt. : 526954
Fax : 0361-547396

NODCO(E) 1885/02/Pt./15/13002

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 17.09.2001

ORDER

In compliance of the Hon'ble Central Administrative Tribunal's order dt. 16.1.2001 in O.A.No.385/2000 read with Hon'ble High Court's Judgement in WP@No.979/2001 dt.5.3.2001 Smti.Ratna Bhattacharjee is hereby re-engaged in the O/o.the Director of Census Operations, Assam, Guwahati as Computer (now designated as Compiler) against the purely temporary post created for a short term in connection with Census 2001 on purely temporary and adhoc basis upto 28.2.2001 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 reengagement will not bestow upon her any right for regularisation in the post in which she is engaged and her services shall be terminated 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 Smti Ratna Bhattacharjee will be disengaged on the discontinuation of the sanction of the temporary post created for 2001 Census and the Govt. will have no liability thereafter.

She is to join immediately.

sd/

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

....2/-

36

17

MEMO NO.DCO(E)285/93/Pt./15/ 13003 009 DATE:17.9.2001

Copy to:

1. The Registrar General, India, 2/A, Mansingh Road, New Delhi-110011.
2. The Pay and Accounts Officer (Census), AGCW & M Building, New Delhi-2.
3. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
4. Shri A. Deb Roy, Sr.CSC, CAT, Guwahati.
5. The Office Superintendent (Estt.& Accounts).
- ✓ 6. Smti. Ratna Bhattacharjee.
7. File No.DCO(E)126/2001/

S. K. Baruah
17/9/2001

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

2001/09/17

2001/09/17



सत्यमेव जयते

NO.DCO(E)285/93/Pt/15/13

भारत सरकार

फोन } Director : 547396 (o)
Phone } 302121 (R)
Off. supdt. : 526954
Fax : 0361-547396

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 17-09-2001

ORDER

In compliance of the Hon'ble Central Administrative Tribunal's order dt. 16.1.2001 in O.A.No.385/2000 read with Hon'ble High Court's Judgement in WP@No.979/2001 dt.5.3.2001 Shri Karunaram Das is hereby re-engaged in the O/o.the Director of Census Operations, Assam, Guwahati as Assistant Compiler against a resultant vacancy occurred due to promotion of incumbent to the post of Computer (now Compiler) sanctioned for 2001 Census on purely temporary and adhoc basis upto 28.2.2002 or upto the date on which sanction of 2001 posts expires whichever is earlier in the pay scale of Rs.3050-4590/- p.m. plus other allowance as admissible from time to time.

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

Shri karunaram Das is reengaged against the resultant vacancy occurred due to promotion of incumbents to the post of Compiler sanctioned for 2001 Census which are 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 Karunaram Das will be disengaged on the discontinuation of the sanction of the temporary post of Compiler created for 2001 Census and consequent reversion of the Compiler to the post of Assistant Compiler and the Govt. will have no liability thereafter.

He is to join Immediately.

Sd/

(DR.S. K. BARUAH)

ASSTT.DIRECTOR OF CENSUS OPERATIONS
ASSAM : GUWAHATI.

....2/-

19
- 2 -
MEMO NO.DCO(E)285/93/Pl./15/ / 73011 - 017. DATE:17.9.2001

Copy to:

1. The Registrar General, India, 2/A, Mansingh Road, New Delhi-110011.
2. The Pay and Accounts Officer(Census), AGCW & M Building, New Delhi-2.
3. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
4. Shri A. Deb Roy, Sr.CSC, CAT, Guwahati.
5. The Office Superintendent (Estt.& Accounts).
6. Shri Karunaram Das.
7. File No.DCO(E)126/2001/

Baruah
17/9/2001
(DR. S. K. BARUAH)
ASSTT.DIRECTOR OF CENSUS OPERATIONS
ASSAM : GUWAHATI

No.DCO(E)50/99/Pt.I/ 206/
 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 16.1.2001 in OA No.385/2000 Smt. Ratna Bhattacharjee was re-engaged as Computer (now designated as Compiler) in the office of the Director of Census Operations, Assam, Guwahati against the purely temporary posts created in connection with Census of India 2001. 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 has 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 Smt. Ratna Bhattacharjee, Compiler stands discontinued w.e.f. the afternoon of 28.2.2002.

(N.C. SEN)

Deputy Director of Census Operations,
 Assam, Guwahati.

Dated 28.2.2002.

Memo No.DCO(E)50/99/Pt.I/2062-68

Copy to:

1. The Registrar General, India
 2/A, Mansingh Road,
 New Delhi - 110011.
2. The Pay & Accounts Officer (Census)
 A.G.C.W & M Building
 New Delhi-110002.
3. The DDCO/ADCO.
4. The Office Supdt. (A/C & Estt.)
- ✓ 5. Smt. Ratna Bhattacharjee, Compiler.
- ✓ 6. Notice Board

(N.C. SEN) 28/2/02

Deputy Director of Census Operations
 Assam, Guwahati.

No.DCO(E)50/99/ P/ 1/2069
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 16.1.2001 in OA No.385/2000 Shri Karunaram Das was reengaged as Asstt.Compiler in the office of the DCO., Assam, Guwahati against a resultant vacancy caused due to promotion of an incumbent against the purely temporary post created in the higher grade for Census of, India, 2001. The said temporary post was created initially upto 28.2.2001 and subsequently extended for a period of one year upto 28.2.2002. The sanction of the higher post has been discontinued w.e.f. the afternoon of 28.2.2002 and consequent reversion of the incumbent has taken place.

Therefore, the services of Shri Karunaram Das, Asstt. Compiler stands discontinued w.e.f. the afternoon of 28.2.2002.


(N.C. SEN)

Deputy Director of Census Operations,
Assam, Guwahati.

Memo No.DCO(E)50/99/ P/ 1/ 2070-75 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. & Acctts.)
5. Shri Karunaram Das, Asstt. Compiler.
6. Notice Board.


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

minu
1.3.2m

आवेदन की तारीख Date for copy.	स्टाम्प और फोटोओ की अपेक्षित संख्या सुचित करने की निश्चित तारीख Date fixed for notifying the requisite number of stamps and folios.	अपेक्षित स्टाम्प और फोटोओ 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.
11/6/2001	13/6/2001	13/6/2001	13/6/2001	13/6/2001

HON'BLE CHIEF JUSTICE

ANNEXURE - 6

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

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

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

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

.... Petitioners.

-Versus-

Oinam Indramani Singh,
Imphal, Manipur.

.... Respondent.

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

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

.... Petitioners

-Versus-

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

.... Respondent.

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

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

... Petitioners.

-Versus-

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

.... Respondent.

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

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

... Petitioners

-Versus-

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

.... Respondent

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

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

.... Petitioners.

-Versus.-

*Writ
2.2.2001*

*2536
2537*

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

.... Respondent.

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

.... Petitioners.

-Versus-

Th. Basanta Singh,
of Bishnupur, Imphal.

.... Respondent.

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

.... Petitioners

-Versus-

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

.... Respondent.

PRESENT :

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

THE HON'BLE MR. JUSTICE D. BISWAS

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

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

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

JUDGMENT AND ORDER (ORAL)

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

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

.... 3

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. Annemdden and others, report 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

*Writ
3
1.3.2000*

*File
Writ*

62

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

The application is accordingly disposed of."

Order dated 11.1.2001 on Review Applications :-

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

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

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

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

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

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

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

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

be

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(59)

- 6 -

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

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

Sd/- R S Mongia
Chief Justice (Acting)

Sd/- D Biswas
Judge

Valued
1-3-2007

Noted to be two copy
Kishor Kishor
Superintendent (Coping) 13/6/2007.
GAURAVI HIGH COURT
Authorized U/S 76 Act of 1979
13/6/2007

AH No 10037
24.11.001



Date of application etc.	Date fixed for notifying the respective number of stamps and folios	Date of delivery of the requisite stamps and folios	Date on which the copy was ready for delivery	Date of marking over the copy to the applicant
13.2001	28.3.2001	28.3.2001	28.3.2001	28.3.2001

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

W.P.C. NO. 979/2001.

1. The Union of India, through the secretary to the Govt. of India, Ministry of Home Affairs, New Delhi.
2. The Registrar General, census operation 2/A Man singh Road, New Delhi.
3. The Director of Census operation Assam, Govt. of India, Ministry of Home Affairs, Ghy.
4. Shri M.R. Das, Director of Census operation, Assam Govt. of India, Ministry of Home Affairs, Ghy.

... Petitioners.

-Vs-

1. Smti Ratna Bhattacharjee, D/O Late Mukunda Prasad Bhattacharjee, Resident of Ferryghat colony, Pandu, Ghy.
2. Shri Karuna Das, son of Late Hali Ram Das, P.O. & vill-Barkhala, Nalbari, Assam.

... Respondents/Applicants.

::PRESENT::

THE HON'BLE MR. JUSTICE JN. SARMA,

THE HON'BLE MR. JUSTICE R. GOGOI

For the petitioner :- Mr. D. Sur, Advl. CGSC.

For the respondent:-

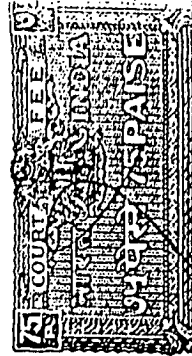
Contd...2/-

W.P.C. NO. 979/2001
1.3.2001

28/3
28/3

28 29

11



-2-

Date:-5.3.2001.

O R D E R

This matter has no merit and accordingly dismissed.

Heard Mr. Sur, learned counsel for the petitioner.

Sd/-R. GOGOI,
JUDGE.

Sd/-JN. SARMA,
JUDGE.

Handwritten notes:
28/3/2001
28/3/2001

Stamp and signature:
Krishna Kumar Sharma
28/3/2001
Handwritten signature: 28/3/2001

Handwritten notes:
1.3.2001

"जनगणना"

"REGGELIND"

30

MINISTRY - A

(12)

सं/No. 12011/3/2000-Ad.IV

भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/URJI MANTRALAYA

भारत के गृह रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

R. No. 321
23/2/2000

2/A Mansingh Road

नई दिल्ली, दिनांक
New Delhi, the

14.2.2000

To

All DCOs

Subject: Ad hoc appointments.

Madam/Sir,

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

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

Yours faithfully,



(JAYASHREE GUPTA)
Joint Registrar General, India

ADLG
11-A
24/2
18/2/2000

31

~~ADVERTISE~~ (6)

Telegram: "REGGELIND"

No. 12011, 14/2000-Ad. IV

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS/CENTRAL MANIPALAYA
 अधि री मी रीरि री रीरि
 OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, भारत 22/02, Manningh Road,
 New Delhi, India 14.02.2000

To,

All DCOs,

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

Sir,

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

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

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

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

Yours faithfully,

(M. R. Singh)

Under Secretary to the Govt. of India

Appd

Sd/-

14/2/2000
 1.3.2/2000

PART II

Particulars of the vacancy proposed to be utilised

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

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

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

Place:

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

Date:

V ANNEXURE—A6

Redeployment facilities to retrenched
regular temporary employees

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

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

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

< 18 - 54 -

OFFICIAL ORDER

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

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

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

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

DD/NO of Census Operations

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

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

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

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

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

[G.I., D.P. & A.R., O.M. No. 43314/1/73-Estt. (D), dated the 27th March, 1975 and 29th June, 1975.]

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

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

[G.I., Dept. of Per. & Adm., O.M. No. 28017/7/92-Estt. (D), dated the 22nd January, 1993.]

Attested

Advocate.

34

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 Kaula D/o 2205

Respondent(s) 6601 2015

Advocate for Applicant(s) M. B.K. Sharma, S. Sama

Advocate for Respondent(s) CPK Naga & Miss U. Das
CASE

Notes of the Registry	Date	ORDER OF THE TRIBUNAL
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26.2.02

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

The application is admitted. Call for the records.

Issue notice to show cause as to why the interim order as prayed for shall not be granted. Returnable by two weeks. In the meantime, Respondents are directed not to out the applicants from services till the returnable date.

List on 15.3.2002 for order.

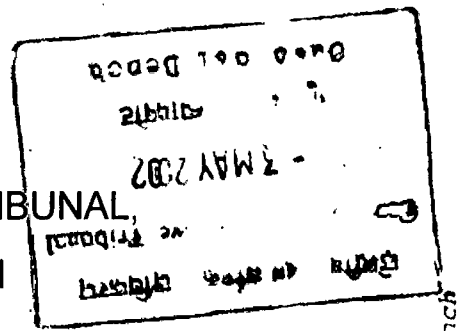
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1.3.02

Member

Vice-Chairman

mb

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH: GUWAHATI
OA NO.70/2002



Smt Ratna Bhattacharjee & Others ---- Petitioner

- Vs -

Union of India and Others ----- Respondents

IN THE MATTER OF

Written statement submitted by the Respondents.

Preliminary objection

The O.A. is hit by principle of promissory estoppels. Once the applicants have accepted the job in terms of orders dt. 17.9.2001, they are estopped from challenging the same. The orders dated 17.9.2001 are annexed as Annexure - R/1 and Annexure-R/2.

Preliminary Submissions:

1) 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

Filed by

(A. DEBROY)

Sr. C.

C. A. T., Guwahati Bench

Census, Directorates have been established in each State/Union territory with permanent staff to carry out the normal function of these directorates. 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 temporary posts are discontinued and the services of temporary staff are disengaged. This practice is being continued since 1971 census. Therefore, the process of engagement, re-engagement and disengagement of additional manpower is not a new thing in the census organization, rather it is a regular and inescapable 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 in State Govt. or Central Govt.

2) As per direction of the Hon'ble Tribunal passed on 16.1.2001 in O.A. 385 / 2000, the petitioners were to be considered/absorbed only against the temporary posts created for Census Operation – 2001. When the order of the Hon'ble Tribunal was to consider the petitioners to be absorbed against Census Operation posts and they were engaged against census posts only for a temporary / short period, their services are bound to be terminated alongwith abolition of census posts. The order dated 16.1.2001 for the Hon'ble Tribunal in OA NO. 385/2000 is annexed as Annexure-R/3. In view of the law laid down by the Hon'ble Supreme in Union of India & Ors. – Vs - Harish Balkrishan Mahajan, 1997(1) P.50 (SCSLJ), Jawaharlal Nehru

Y 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 applicants can not be regularized and once the post is abolished, the applicants can not be continued.

3) Smt. Ratna Bhattacharjee and Sri Karuna Ram Das, the applicants in this OA, were appointed as Computers against temporary posts of Census – 1991. As per the law laid down by Hon'ble High Court in their order dated 7.6.2001 in the Writ Petitions No. 2531/2001 to 2537/2001, they are eligible to be considered for re-engagement against the census posts of their own category i.e. Computer (now Compiler). It is however submitted that there is no vacancy in the census post of Compiler. There are also no regular vacancies of Computer/Compiler to absorb the petitioners. Further the appointment to regular post of Computer (now Compiler) is made through 100% promotion failing which by deputation and failing both by direct recruitment in accordance with the recruitment rules framed under article 309 of the Constitution of India. The applicants cannot be regularized/ appointed against regular posts through back door in deviation of the recruitment rules framed under article 309 of the constitution. However, in view of the order of the Hon'ble Tribunal as and when occasion will arise to report any regular 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.

4) 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 OA, the respondents beg to state that the applicants Smt. Ratna Bhattacharjee and Shri Karuna Ram Das were re-engaged in the post of Compiler created for 2001 Census and against a temporarily fallen vacant post of Assistant Compiler respectively in compliance with the direction of Hon'ble Tribunal dated 16.1.2001 in OA No. 385/201 and judgement of Hon'ble High Court in WP(C) No. 979/2001 dated 5.3.2001. They were re-engaged in these posts for a temporary and short period. Moreover, as the census operation work load had increased and answering respondents needed to fill up the temporary vacant post of Asst. Compiler, this post could not be kept vacant and the same was filled up temporarily by re-engaging one of the petitioners (Sh. Karuna Ram Das) in order to comply with the direction of Hon'ble Tribunal. Now, since work load has decreased and Department has no justification to continue the incumbent on ad hoc basis as it can keep the post vacant till the same is filled up on regular basis in accordance with the recruitment rules by appointing a person from appropriate category. As per DOPT O.M. No 28036 / 8 / 87 / SSH (T) dated 30.3.1988, adhoc appointment can be made only if it is not possible to keep the post vacant. A copy of DOPT OM dated 30.3.1988 mentioned above is annexed as Annexure-R/4. Since increased work load is getting over and post can be kept vacant till it is filled up as per the relevant recruitment rules, there is no justification to continue the applicant No 2. Moreover, as per the order dated 7.6.2001 of the Hon'ble High Court, Guwahati, the

retrenchees are to be re-engaged against the census posts of the same category in which they were earlier engaged in the previous census. Since, Sh. Karuna Ram Das was engaged in the census 1991 in the post of Computer, he can not be re-engaged in a different category i.e. in the post of Asstt. Compiler. In this connection it is pertinent to mention here that in its order dated 6.2.2002 in OA No. 142/2000, which is annexed as Annexure- R/5 filed by Sh Bimlananda Das and Others, the Hon'ble Tribunal has ordered to re-engage the retrenchees in Assam against the census posts as per the order of said Hon'ble High Court's order dated 7.6.2001 i.e. in the order of seniority in the same category. As such Sh. Karuna Ram Das has no right to now continue in a census post of different category. Besides, now the regular incumbents of six posts of Asstt. Compilers who were promoted as Compiler on adhoc basis against the posts created temporarily are getting reverted with abolition of posts and services of the applicant No. 2 will not be required.

The applicants in OA have no right to continue on adhoc basis indefinitely. They can not compel the Department to continue them indefinitely. They cannot be continued indefinitely, as their adhoc appointment does not create any such right in their favour. In the orders of appointment dated 17.09.2001 issued to applicants, it is clearly mentioned that the appointment of the applicants was purely temporary and such appointment will not bestow on them any right for regularization in the posts in which they are re-engaged and their services shall be terminated without assigning any reason thereof.

2. With regard to para 2 of OA, the respondents beg to offer no comments.

3. With regard to the para 3 of OA, the respondents beg to offer no comments.

4. With regard to the para 4.1 of OA, the respondents beg to offer no comments.

5. That with regard to para 4.2 of OA, the respondents beg to state that there is no reason for the applicants to be aggrieved by the orders of their re-engagement in service allowed for a limited period upto 28th February, 2002 as the sanction for the census posts were available only upto that period. The applicants knowing fully well the terms and conditions stated in the offers of appointment as well as their appointment letters, joined this organization following their appointment in September, 2001. The fact that Census posts are short term in nature and do not continue indefinitely is very much known to the applicants as they were engaged during 1991 Census also.

6. With regard to the pare 4.3 of the OA, the respondent beg to state that both the applicants namely Smt Ratna Bhattacharjee and Shri Karuna Ram Das were serving on a fixed pay basis against temporary posts of Checkers on contract basis. During the period of their contract, some temporary posts of Computers (Now compiler)

were lying vacant for a brief period. The serving fixed pay employees were considered along with the applicants sponsored by Employment Exchange for those posts with a view to give them some financial benefits before their retrenchment. The Hon'ble Tribunal is aware of the fact that these applicants served for a brief period of about six months as Computer (1991 Census posts) purely on ad hoc basis before their retrenchment. It may be added here that the regular direct appointment to the post of Computer against regular posts is not permissible, as it is a promotional post in terms of the Recruitment Rules framed under Art. 309 of the Constitution. Similarly, direct appointment to the post of Assistant Compiler is also not permissible without sponsorship of the candidate from the Staff Selection Commission. Both the applicants were appointed as Computer on ad hoc basis against 1991 Census posts only after obtaining exemption from the SSC for such short term posts. Even going by the judgement dated 7.6.2001 of Hon'ble Guwahati High Court, they are to be considered against temporary posts of Computer created for Census – 2001 operations on the basis of their seniority according to their length of service in the same category rendered by them in 1991 Census. If at all principles laid down by Hon'ble High Court are made applicable, the petitioners can not be re-engaged, since they are placed at much junior levels among the persons who served as Computers on adhoc basis during 1991 census operations.

7. That with regard to para 4.4 of OA, the respondent beg to state that the Hon'ble Tribunal in their judgement dated 5.6.98 (Annexure-

R/6) in OA No. 269/1993 in which some of the 1991 retrenched census employees challenged the termination order dated 21.12.93 held that "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 (Registrar General, India) to discontinue sanction to the temporary posts specifically 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." However, Hon'ble Tribunal opined that though the applicants are not successful in this application, they can be accommodated in other vacancies available under the control of the respondents in the light of the decision of Hon'ble Supreme Court in Union of India Vs Dinesh Kumar Saxena reported in (1995) 29 ATC 585. It is humbly submitted that the direction of the Hon'ble Supreme Court of India in Union of India Vs Dinesh Kr. Saxena reported in (1995) 2 A.T.C. 585 to the respondent was to take action 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."

The Hon'ble Supreme Court also directed that :

"The applicants and /or the Staff selection Commission 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 Department for the purpose of their selection to the regular posts."

It, therefore, follows that the applicants are to be considered for appointments against regular vacancies by direct recruitment and in the instant case there is no regular vacancy available in this Directorate in any grade for which they are qualified.

8. That with regard to para 4.5, the respondents beg to state that averments made by the applicants that the respondents have violated the order of the Hon'ble Tribunal dated 5.6.98 is not correct. It is however submitted that respondent no. 3 wanted to fill up some of the temporary posts created by census 2001 by deputation in accordance with the instructions issued by the Government to fill up the census posts by promotion or by deputation and issued a circular dated 23/24.2.2000 inviting applications from the deputationists. The Hon'ble Tribunal as well as the Hon'ble High Court also did not like to interfere with the process of deputation initiated by the Director of Census Operations, Assam, Guwahati.

9. That with regard to paras 4.6 and 4.7 of the OA, the respondent beg to state that in its order dated 5.6.98 in O.A 269/93, the Hon'ble tribunal did not allow the O.A., but cited the decision of the Hon'ble Supreme Court in the Union of India Vs Dinesh Kumar Saxena reported in (1995) to 2 A.T.C.585 and desired that applicants will be

considered by the respondents as and when occasion arises for making appointment against regular vacancies. Some of the applicants of the O.A. No.269/93 filed O.As. no. 161/99 and 76/2000 seeking appointment against the vacancies in the Directorate. These O.As. were disposed of by the Hon'ble Tribunal in orders dated 16.2.2000 and 25.2.2000 respectively directing the respondents to absorb the applicants against the census posts. However, in the mean time Govt. created temporary posts for census 2001 and decided to fill up these posts by deputation or by promotion only. Accordingly respondents no. 3 initiated action to fill up the census posts by promotion and issued circular for filling up the posts by deputation. Aggrieved by this action of the respondents, the applicants of the OAs No. 161/99 and 76/2000 filed a fresh O.A. No.142/2000. In the interim order dated 8.5.2000 passed by the Hon'ble Tribunal in OA no.142/2000, the Hon'ble Tribunal observed/directed as under:

"... In my opinion, staying the operation of Annexure-3 order dated 23/24.2.2000 (circular inviting applications for deputation for filling up census posts) will result complete stoppage of census work and therefore the prayer of the learned counsel for the applicants in this respect cannot be granted..... In view of this I am of the opinion that while the concerned authorities may go ahead in calling the prospective candidates on deputation as per Annexue-3 circular dated 23/24.2.2000 they shall also consider and adjust the present 4 applicants as

directed vide order dated 16.2.2000 and 25.2.2000. The benefits of these orders would be restricted only to the present 4 applicants who are agitating their cases. It is made clear that this direction shall not apply to other similarly situated persons who have not agitated their rights before the Tribunal. It is further ordered that adjustment/absorption of the applicants in pursuance of the order passed today will not confer any right on the applicants to further continue their services after the census operation is over unless their claims are considered on merits as highlighted in the OA...."

Accordingly four applicants in OA No. 142/2000 were temporarily appointed on 3.10.2000. As observed by the Hon'ble Tribunal in the interim order, it was specifically mentioned in their appointment letters that the temporary appointments had been made against the purely temporary posts sanctioned for Census – 2001 and the appointment shall not bestow upon the persons any right for future continuation in their service after census operations 2001 is over. Similarly, Smt. Ratna Bhattacharjee and Sri Karuna Ram Das filed OA No. 385/2000 in Hon'ble Tribunal and on the basis of Hon'ble Tribunal's direction dated 16.1.2001, both of them were re-engaged against purely temporary posts of Census – 2001 subject to condition that this re-engagement will not confer on them any right for regularization in the posts in which they are re-engaged and their services shall be terminated without assigning any reason thereof. It was also specifically mentioned in their re-engagement letters that

✓ the posts are created to attend to additional work of 2001 census and will be discontinued / abolished on or before 28.2.2002. Their services will be disengaged on the discontinuation of the sanction of the temporary posts created for 2001 census and the Government will have no liability thereafter.

10. That with regard to para 4.8 of OA, the respondent beg to state that Smt Ng. Makan, an applicant of OA No. 60 / 94 was regularised in compliance of the order of the Hon'ble Tribunal as she was holding a permanent / regular post on adhoc basis. In the instant case there is no vacancy in the regular post of Compiler. A regular vacancy in the post of Assistant Compiler exists, but the same is reserved for OBC. The requisition for the post has already been sent to SSC who have asked for a clearance certificate from this office to take action on matter. Existing Govt. orders prohibits any direct recruitment without obtaining any clearance from the Screening Committee of the concerned Deptt. headed by the Secretary to the Govt. of India, Ministry of Home Affairs. In this regard a copy of the direction of the Government contained in Department of Personnel and Training, Govt. of India letter no. 2/8/2001 PIC dt. 16.05.2001 regarding the optimization of direct recruitment to civilian posts is annexed as Annexure – R/7.

11. That with regard to para 4.9 of OA, the respondents beg to state that in the Census Directorate of Assam, the regular posts especially Group 'C' posts are limited as sanctioned by Govt. as commensurate with the workload in normal times. However, it is

submitted that there was no direct appointment in DCO, Assam in any regular group 'C' post except a post of Assistant Compiler sponsored by Staff Selection Commission (SSC), since their retrenchment of temporary and adhoc 1991 census employees w.e.f. 31.12.1993. When the post was advertised the applicants did not care to apply to SSC in response to their advertisement. They suddenly woke up from their sleep when some temporary posts for 2001 Census were created and the deputation circular was issued for filling up the same strictly in accordance with policy decision of Govt. Therefore, the allegation of the applicants that all their requests/representations were not attended to is not correct. On the other hand, the respondents have taken action to forward the applications of the retrenched employees to the other Deptts. with requests to consider their cases sympathetically whenever the retrenched employees approached the respondents for such help.

12. With regard to para 4.10 of OA, the respondents beg to state that they have never avoided the retrenched Census employees of 1991 Census for their regular appointment, but proposed to fill up some of the short term posts created for 2001 Census by promotion and deputation only as per the direction of the Govt. of India. Some of the judgments passed by the Hon'ble Tribunal were difficult to implement against the Govt. orders and therefore, an Appeal was made to the Hon'ble High Court. But there was no delay in implementing the order of the Hon'ble High Court as soon as the order of the judgement reached this office. It is submitted that as far as possible the retrenched census employees were re-engaged

against 2001 – census posts on temporary basis upto the period the sanction of Govt. was available and they were unequivocally told while re-engaging them that this re-engagement was temporary in nature and their services will be dispensed with as soon as the census operation was over.

13. That with regard to para 4.11 of OA, the respondents beg to state that the applicants accepted the offer of appointment knowing fully well the conditions laid down in the offer of their appointment. The respondent is nowhere responsible for the same. As per the decision of the Hon'ble High Court, Guwahati Bench in writ petition (Civil) No. 2531 / 2001 to 2537 / 2001, the petitioners were directed.

“ To offer the vacancies to the retrenchees according to their length of service. A person with the longer length of service in a particular category would be offered the job first and then the other retrenches in that order.”

According to that direction, Smt Ratna Bhattacharjee and Shri Karuna Ram Das are to be offered the post of compiler but as per their length of services in the scaled pay of Compiler, they stand junior to many others (their position being 12th and 14th in respect of Seniority).

The respondents also beg to state that there is no vacancy either short term or long term in this Directorate in the post of

✓ Compiler. The applicant cannot be considered against any other post according to the above direction of the Hon'ble High Court, Guwahati.

14. That with regard to para 4.12 of OA, the respondents beg to state that there are no regular vacancies against which the 12 deputationists are working at present. The deputationists were appointed much earlier to the appointment of the applicants and they are continuing against the resultant vacancies occurred in the core posts due to temporary promotions of the regular incumbents to the higher posts for a fixed period of time. As soon as the temporary posts created for 2001 Census in the higher posts are discontinued, the incumbents will stand reverted to their original posts and the deputationists will have to go back to their parent Departments / Organisations. This is likely to happen very shortly. Therefore, the continuation of the applicants against the resultant vacancies in the core posts by repatriating the deputationists does not arise. The direction of the Hon'ble High Court was to offer the temporary vacancies for 2001- Census and not the resultant vacancies occurred on the core side. It is, therefore, reiterated that the termination orders dated 28.02.2002 issued to the applicants are not illegal, arbitrary or violative of the Hon'ble High Court's order dated 7.6.2001. The answering respondents beg to clarify that review of workload and continuation of these temporary census posts is carried periodically as per need. The existing temporary posts created for Census – 2001 can be abolished at any time.

✓ 15. With regard to para 4.13 of OA, the respondents beg to state that the order of the Hon'ble Tribunal as well as the order of the Hon'ble High Court Guwahati are to appoint the applicants against posts created for 2001 Census only. There is no vacancy on the core side in the Directorate of Assam as explained in the earlier paras. The posts in various Group 'B', 'C' and 'D' grades either regular or temporary are sanctioned and operated Directorate-wise in all States as per the requirements. These posts are also filled up office / Directorate-wise in accordance with the relevant recruitment rules, Govt. guidelines and instructions. Therefore, the applicants cannot be considered for appointment either regular or temporary basis in other Directorates in North-Eastern States and for that matter in other Directorates located in various parts of the country. In other States there are also innumerable previous retrenched census employees like the applicants. In case, the applicants are considered for appointment in other States, this will lead to agitation and unrest by such categories of persons as well as the employees in such States. Moreover, it is not possible to appoint such persons in other Directorates / Offices under the administrative control of Registrar General, India. In view of this position, the allegation of the applicants that non-consideration for regular appointment or otherwise of such retrenchees in DCO, Assam is a direct violation of the direction given by the Hon'ble Apex Court in addition to the order of the Hon'ble High Court and this Hon'ble Tribunal is misrepresented and misconceived and hence denied emphatically.

16. That with regard to para 4.14 of OA, the respondents beg to state that most of the posts filled by deputation are resultant vacancies and no appointment by direct recruit can be made from outside against these resultant vacancies, which are presently being occupied by the regular incumbents. Further, the contents of the letter dated 14.2.2000 from the office of the R.G.I. is totally misconceived and misconstrued by the applicants as it relates to the temporary promotions of regular staff against 2001 Census posts. This clause in the letter dated 14.2.2000 does not apply to the retrenchees to be re-engaged against 2001 Census posts or to the persons appointed on deputation basis. A copy of ORGI's letter dated 14.2.2000 is annexed as Annexure-R/8.

17. With regard to para 4.15 of OA, respondents beg to state that the scheme for re-deployment facilities to retrenched regular temporary employees being referred to in this paragraph is not applicable to the applicants, who were engaged purely on adhoc basis against temporary posts created for census operations during 1991 and 2001. The scheme is applicable to those temporary Central Government employees who are appointed against regular posts. The applicants have never been appointed against regularly sanctioned posts, but against temporary posts created for census operations for short period on adhoc basis and hence, they are not entitled to such facilities / benefits. The respondents crave leave of this Hon'ble Tribunal to produce the copy of the scheme and explain the import of such a scheme at the time of hearing.

18. With regard to para 4.16 of OA, the respondents beg to state that there are no vacancies in Group "C" and "D" posts which has occurred due to the death/retirement in the Directorate of Census Operation, Assam. However, even if there are such vacancies, the applicants can not be appointed against these vacancies as these are to filled up through the prescribed channel as per the relevant recruitment rules which are framed under the provisions of the Constitution of India.

19. With regard to para 4.17 of OA, the respondents beg to state that both the orders of the Hon'ble High Court as well as the Hon'ble Tribunal have been understood by the respondents and the said orders have been complied with full respect to the Hon'ble Court / Tribunal. There is no policy adopted by respondents, which may be termed as hire and fire as alleged by the petitioners.

20. With regard to para 4.18 of OA, the respondents beg to state that there are no regular vacancies in any category of the group 'C' posts either regular or census which can be offered to the applicants commensurate with their qualifications as per the Hon'ble High Court's order. Two statements (Statement-I and Statement-II) showing the incumbency position in respect of core and census posts as on 1.3.2002 are annexed as Annexure-R/9 and Annexure-R/10 respectively.

21. With regard to para 4.19 of OA, the respondents beg to state that in view of the circumstances stated above in the aforesaid

Y paragraphs, the applicants do not deserve any relief from the Hon'ble Tribunal nor they are eligible for any relief from the Govt.

22. With regard to para 4.20 of OA, the respondents beg to state that it is a fit case to be dismissed at the admission stage itself.

23. In view of the facts stated above the said applications deserve to be dismissed on the following grounds .

(i) The termination order with regard to these two applicants were issued after the abolition of 2001 Census posts.

(ii) There is no regular vacancy against core side and therefore, they cannot be considered for retention.

(iii) That the applicants cannot be considered for any other category of post as per the Hon'ble High Court order.

(iv) That the applicants are not even qualified for other categories of posts.

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

GROUND:

5.1: That the contents of para 5.1 of OA are absolutely misconceived and baseless and the same are denied. It is respectfully submitted that once the applicants have taken the job accepting the terms of the order dated 17th September, 2001, they are estopped from challenging the very same order. It is respectfully submitted that the retrenchment of the applicants will be in terms of the order of appointment dated 17th September, 2001.

The answering respondents beg to state that the direction issued by the Hon'ble Tribunal and also the Hon'ble Gauhati High Court was that "the applicant(s) 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 judgement of the Apex Court." Accordingly, the applicants were appointed on a purely temporary basis against the said posts which were created for a period upto 28.2.2002, and, their services were terminated on the said posts being abolished w.e.f. 28.2.2002. The applicants, by no stretch of imagination, can be continued and/or appointed against non-existent posts. As such, the statements made in para 5.1 are totally misconceived. The answering respondents respectfully beg to state that, in fact, the applicants have entirely misinterpreted the directions issued by this Hon'ble Tribunal as well as the Hon'ble Gauhati, High Court.

5.2: That the contents of Para 5.2 of the O.A. are again misconceived and unfounded and hence the same are denied. The

✓ interpretation of settled principle of law as well as the law endorsed in the judgement of Md. G. Ammenuddin –Vs- the State of Tamil Nadu, Census retrenchees need to be considered for regular appointment along with others in accordance with the Recruitment Rules and through appropriate Recruiting agency at the time of making regular appointment against the vacant posts. In the present case there is no such situation. Respondents have no vacancy. As and when vacancies arise, they will be reporting to recruiting agency to fill up the post on regular basis (if any), the application for recruitments to them (recent appointees) will be forwarded to recruitment authority to consider the cases of the applicants in terms of the law laid down in the case of Md. G. Ammenuddin –vs- State of Tamil Nadu.

5.3. The contents of para 5.3 of the O.A. are again misconceived and are uncalled for and hence the same are denied. The respondents have not violated any constitutional mandate nor they have adopted any hire and fire policy, rather they wish to act in accordance with the constitutional mandate, i.e. the Recruitment Rules framed under Article 309 of Constitution in the matter of filling up the posts. These are the applicants who want to be inducted in service through back door in disregard of constitutional mandate. The respondents have not also violated the law laid down by the Hon'ble Supreme Court.

5.4. The contents of para 5.4 of the O.A. are misconceived and baseless and hence the same are denied. It is respectfully submitted that retrenchees are to be considered for their appointment in

accordance with the Recruitment Rules through appropriate recruiting agency at the time of direct recruitment to regular post. No such occasion has arisen, since there is no regular post vacant for the applicants who have filed the present O.A.

5.5: That the contents of para 5.5 of the O.A. are incorrect and therefore the same are denied. It is submitted that the action of the respondent is not opposed to the spirit of the order of the Hon'ble High Court and Hon'ble Tribunal, but the same is in consonance with the said orders.

5.6: The contents of para 5.6 of the O.A. are absolutely incorrect and the same are denied. It is submitted that the order the Hon'ble Court was to consider the applicants against census posts only. Although as per rules (DOPT instruction), the applicants could not have been appointed against the core post on adhoc basis, just to honour the order of Hon'ble Tribunal and under the pressure of Contempt Petition, Respondent could accommodate the applicant No.2 against a core post (vacant temporarily) in violation of Rules. Thus although the adhoc adjustment of the additional vacancy is not as per rule, but just to have utmost regard to the order of the Hon'ble High Court and being under immediate and immense pressure of Contempt Petition, the answering respondents could adjust the applicants on adhoc basis. The goal of census operation is not to increase opportunity for employment, but to do the census operation. The order of Hon'ble Supreme Court is to consider the applicants for regularization in accordance with the Recruitment Rules along with

others on availability of vacancies. At present the respondents have no vacancy to be reported to the Recruiting agency. Therefore the question of regularisation of the applicant does not arise. Furthermore, the adhoc adjustment of the applicant is not creating any right thereafter for the continuation of service of the respondents indefinitely.

5.7: That the contents of para 5.7 of the O.A are again misconceived and baseless and the same are denied. It is respectfully submitted that the spirit of the order of the Hon'ble Supreme Court is that the census retrenchees are to be considered against the regular vacancy in Group 3 and 4 through appropriate recruiting agency in accordance with the Recruitment Rules at the time of making direct recruitment. No such occasion has arisen and in case of any recruitment to any post in any of the Directorate of Census Operation, while reporting the vacancies to the Staff Selection Commission the case of the retrenchees will be recommended to SSC for consideration as per law laid down in the case of Md. G. Amenuddin – vs- the State of Tamil Nadu. Again in terms of the said judgement of Hon'ble Supreme Court, the census retrenchees have the right in respect of his state only and not in any other state. Therefore following the same analogy, the case of the applicant can be considered in the Directorate of his state as well the state govt. and not any other directorate.

5.8: That the contents of para 5.8 of the O.A. are absolutely misleading and incorrect and hence the same are denied. It is

submitted that there is nothing wrong with the order dated 17th September, 2001. Having accepted appointment in terms of the said order, applicants are estopped from challenging the same.

5.9: That the contents of para 5.9 of the O.A. are again misconceived and baseless and hence the same are denied. It is submitted that having seen the order dt. 17th September/2001, Hon'ble Tribunal was pleased to drop the Contempt Petition at that time. It is further submitted that the provision for regularisation contained in circular dated 14.2.2000 is applicable to regular employees who are promoted against census posts. It is not applicable either to adhoc employees or to the deputationists.

5.10: That the contents of para 5.10 are misconceived and are denied. It is submitted that termination order in terms of appointment order dt. 17th September, 2001 was accepted by the applicants.

5.11: That the contents of para 5.11 of the O.A. are again misconceived and baseless and the same are denied. It is submitted that there is no such action on the part of the respondents which is not sustainable in the eyes of Law.

6: With regards to para 6 of OA, the respondents beg to offer no comments.

7: Need no reply.

8 & 9: The contents of para 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 reject the O.A. as well the payer for interim relief.

Para 10 to 12: Need no reply.

VERIFICATION

I, Shri N. C. Sen presently working as Deputy Director of Census Operations, Assam being duly authorised and competent to sign this verification, do hereby solemnly affirm and state that Statement made in para 5, 6, 8, 11, 12, 13 & 19 are true to my knowledge and belief and those made in para 1, 7, 9, 10, 13, 20 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 sign the verification this 30th day of April, 2002.

Nripendra Chandra
Deponent.



फोन } Director : 547396 (o)
Phone } 302121 (R)
Off. supdt. : 526954
Fax : 0361-547396

No.DCO(E) 285/97/15/13002

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

Annexure - R. 1

दिनांक गुवाहाटी

Dated Guwahati 17.09.2001

ORDER

In compliance of the Hon'ble Central Administrative Tribunal's order dt. 16.1.2001 in O.A.No.385/2000 read with Hon'ble High Court's Judgement in WP@No.979/2001 dt.5.3.2001 Smt. Ratna Bhattacharjee is hereby re-engaged in the O/o.the Director of Census Operations, Assam, Guwahati as Computer (now designated as Compiler) against the purely temporary post created for a short term in connection with Census 2001 on purely temporary and adhoc basis upto 28.2.2001, 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 reengagement will not bestow upon her any right for regularisation in the post in which she is engaged and her services shall be terminated 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 Smt Ratna Bhattacharjee will be disengaged on the discontinuation of the sanction of the temporary post created for 2001 Census and the Govt. will have no liability thereafter.

She is to join immediately.

sd/

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

29

-: 2 :-

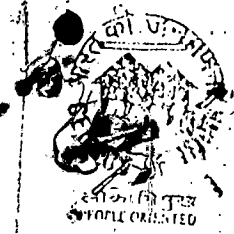
MEMO NO.DCO(E)285/93/Pt./15/ / 3003 - 007 DATE:17.9.2001

Copy to:

1. The Registrar General, India, 2/A, Mansingh Road, New Delhi-110011.
2. The Pay and Accounts Officer(Census), AGCW & M Building, New Delhi-2.
3. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
4. Shri A. Deb Roy, Sr.CSC, CAT, Guwahati.
5. The Office Superintendent (Estt.& Accounts).
6. Smti. Ratna Bhattacharjee.
7. File No.DCO(E)126/2001/

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

S Baruah
17/9/2001



सत्यमेव जयते

NO. DCO (E) 285/93/Pt/15/13

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

ज़ि. एस. रोड, उलुबारी, गुवाहाटी - 781007

G.S. ROAD, ULUBARI, GUWAHATI-781007

फोन } Director : 547396 (o)
Phone } 302427 (R)
Off. supdt. : 526954
Fax : 0361-547396

Annexure - R/2

दिनांक गुवाहाटी

Dated Guwahati 17-09-2001

ORDER

In compliance of the Hon'ble Central Administrative Tribunal's order dt. 16.1.2001 in O.A.No.385/2000 read with Hon'ble High Court's Judgement in WP@No.979/2001 dt.5.3.2001 Shri Karunaram Das is hereby re-engaged in the O/o.the Director of Census Operations, Assam, Guwahati as Assistant Compiler against a resultant vacancy occurred due to promotion of incumbent to the post of Computer (now Compiler) sanctioned for 2001 Census on purely temporary and adhoc basis upto 28.2.2002 or upto the date on which sanction of 2001 posts expires whichever is earlier in the pay scale of Rs.3050-4590/- p.m. plus other allowance as admissible from time to time.

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

Shri karunaram Das is reengaged against the resultant vacancy occurred due to promotion of incumbents to the post of Compiler sanctioned for 2001 Census which are 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 Karunaram Das will be disengaged on the discontinuation of the sanction of the temporary post of Compiler created for 2001 Census and consequent reversion of the Compiler to the post of Assistant Compiler and the Govt. will have no liability thereafter.

He is to join immediately.

Sd/

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

31

-: 2 :-

MEMO NO.DCO(E)285/93/Pl./15/ /3011 - 017 DATE:17.9.2001

Copy to:

1. The Registrar General, India, 2/A, Mansingh Road, New Delhi-110011.
2. The Pay and Accounts Officer(Census), AGCW & M Building, New Delhi-2.
3. The Registrar, Central Administrative Tribunal, Guwahati Bench, Guwahati.
4. Shri A. Deb Roy, Sr.CSC, CAT, Guwahati.
5. The Office Superintendent (Estt.& Accounts).
6. Shri Karunaram Das.
7. File No.DCO(E)126/2001/

S. K. Baruah
17/9/2001

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

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

32
Annexure R/3

Original Application No.385 of 2000

Date of decision: This the 16th day of January 2001

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

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

1. Smt Ratna Bhattacharjee,
D/o Late Mukunda Prasad Bhattacharjee,
Resident of Ferryghat Colony, Pandu,
Guwahati.
2. Shri Karuna Das,
Son of Late Hali Ram Das,
P.O. & Vill. - Barkhala,
Nalbari, Assam.

.....Applicants

By Advocate Dr (Mrs) M. Pathak.

- 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,
2/A Man Singh Road,
New Delhi.
3. The Director of Census Operations, Assam
Government of India,
Ministry of Home Affairs,
Guwahati.
4. Shri M.R. Das,
Director of Census Operations, Assam,
Government of Assam,
Ministry of Home Affairs,
Guwahati.

.....Respondents

By Advocate Mr B.S. Basumatary, Addl. C.G.S.C.

ORDER (ORAL)

CHOWDHURY.J. (V.C.)

The applicants are two in number who are retrenched employees of the Census Department. They have assailed the Circular issued by the Director of Census Operation on 23/24.2.2000 for filling up the posts of Computer, Lower Division Clerk, Assistant Compiler, Proof Reader in

: 2 :

connection with the 2001 Census operations. By the aforementioned communication, the department has sought to fill up the posts on deputation basis.

2. Dr (Mrs) M. Pathak, learned counsel for the applicants submitted that a number of decisions have been rendered by this Tribunal for absorbing such persons in the light of the decision rendered by the Supreme Court in Government of Tamilnadu and another vs. G. Md. Ammendden and others, reported in (1997) 7 SCC 499.

3. We have also heard Mr B.S. Basumatary, learned Addl. C.G.S.C. Upon hearing the learned counsel for the parties, we are of the opinion that the present applicants who are similarly situated are also entitled to similar benefits and following the decisions mentioned above, we direct the respondents to consider the case of these two applicants for their appointment in the light of the directions given by this Tribunal, more particularly in O.A.No.415 of 1999, O.I. Singh vs. Union of India and others disposed of on 20.1.2000.

The applicants may also submit representation before the authority ^{detailing} ^{factual matrix} giving the ⁱⁿ ^{fact} situation within two weeks from the date of receipt of this order and on receipt of the representation, the respondents shall take necessary measures for consideration of their case within three weeks from the date of receipt of the representation.

4. Subject to the above observations the application stands allowed. There shall, however, be no order as to

Sd/ VICE CHAIRMAN

Sd/MEMBER (Adm)

Certified to be true Copy

प्रमाणित प्रतिलिपि

22/01/01

Section Officer (J)

आनुमान अधिकारी (न्यायिक शाखा)
Central Administrative Tribunal

कोर्टा प्रशासक अधिकारी
Gowahati Bench, Guwahati-8
गुवाहाटी बेंच, गुवाहाटी-8

22/01/01

(34)

Annex R/4

Secretary under the Central Staffing Scheme, will continue to be regulated by special instructions contained in O.M. No. 31/16/82-EO (MM), dated 28-8-1983.

6. *Review of ad hoc appointments/promotions.*— All *ad hoc* appointments including *ad hoc* promotions shall be reviewed on the basis of the above guidelines. In exceptional circumstances, wherever such appointments are required to be continued beyond the present term, the decision thereon may be taken by the authority prescribed in Para. (4) (v). However, it may be noted that the continuance of such *ad hoc* appointments, including *ad hoc* promotions, will be subject to the overall restrictions of one year from the date of issue of these instructions.

All Ministries/Departments are requested to take action in accordance with the above-mentioned instructions in respect of both Secretariat as well as non-Secretariat offices under them.

[G.I., Dept. of Per. & Trg., O.M. No. 28036/8/87-Estt. (D), dated the 30th March, 1988.]

(2) *Action to fill up posts to be taken well before vacancies occur.*— Prime Minister has noticed that in a number of cases, appointments are made *ad hoc* either because Recruitment Rules have not been finalized or there has been delay in the filling up of the posts in a regular manner. Prime Minister has, therefore, desired that Ministries/Departments should take action to fill up the posts in good time before vacancies actually occur in order to avoid *ad hoc* appointments. In case where there is unjustifiable delay, responsibility for the delay should be assigned and those responsible should be suitably dealt with.

[G.I., D.P. & A.R., O.M. No. 28036/2/77-Estt. (D), dated the 7th October, 1977.]

(3) *Ad hoc appointment of Section Officers of the CSS as Under Secretaries and equivalent posts.*— Keeping in view the pressing requirements of various Ministries/Departments and the exigencies of public service, it has been decided, in partial modification of the instructions contained in OM, dated 28-9-1983, to permit the Ministries/Departments to make *ad hoc* appointments to the posts of Under Secretaries/equivalent from among the Section Officers of the Central Secretariat Service subject to the following conditions:—

- (i) The *ad hoc* appointments would be ordered on the basis strictly of existing cadrewise seniority by the Ministries/Departments controlling the Section Officers cadres.
- (ii) No officer who has not completed the requisite approved service of 8 years as Section Officers as on 1st July, 1989, would be appointed as *ad hoc* Under Secretary.
- (iii) The *ad hoc* appointments would be made purely as a temporary measure for a period not exceeding 3 months or until further

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 142 of 2000.

Annexure-R5

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.

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

... Respondents.

ORDER

CHONDHURY 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.No. 161/99 and 76/2000 respectively.

Further the applicants also prayed for quashing the Impugned letter No. DCO(E)/285/91/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)

Original Application No. 269 of 1993. ANNEXURE 5

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

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

Shri G.L.Sanglyine, Administrative Member.

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

By Advocate Shri B.Malakar


- Versus -

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

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

ORDER

G.L.SANGLYINE, ADMINISTRATIVE MEMBER



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

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

27

<u>Sl.No.</u>	<u>Name</u>	<u>Designation</u>	<u>Date of appointment letter</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	"	10.9.1993
14.	Shri Karuna Das	"	10.11.1993
15.	Smt. Geeta Devi	"	10.11.1993
16.	Shri Jiten Kr. Deka, Asstt. Compiler		10.11.1993
17.	" Bimalananda Das, Lower Division Clerk		3.6.1993
18.	Smt. Anima Hazarika	"	10.11.1993
19.	Shri Sailen Doley	"	10.11.1993
20.	" Jayanta Das	Peon	22.3.1991
21.	" Ajit Kr. Das	Farash	7.9.1990.

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

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

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

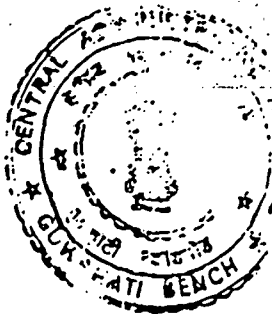
contd/-

29/ (24) 42

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

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GAUHATI

20 (21) 43

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



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31/20 44
services of Daily Wages employees were terminated on ground of absence of work. The Hon'ble Supreme Court upheld the termination of service thus:

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

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

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287

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

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

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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.Malakkar 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 AWC 585 in which it was held among others as follows: -

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

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ADVOCATE
GAUHATI HIGH COURT



304

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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)

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प्रमाणित प्रतिलिपि

[Signature]
9/6/98
Section Officer (J)
माननीय अधिकारी (न्यायिक सेवा)
Central Administrative Tribunal
केन्द्रीय प्रशासनिक उपाय
Guwahati Bench, Guwahati-8
गुवाहाटी : न.प.बोर्ड, गुवाहाटी-8

8/9/6

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GAUHATI HIGH COURT

R-765/1177-J
28/5/2001

48

1793/PRA-CP-2-01
28/5

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

Annex-R/67

New Delhi, the 16 May, 2001.

OFFICE MEMORANDUM

Subject: Optimisation of direct recruitment to civilian posts.

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

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

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

Plm
Screening
Cmttee
Secretary
FA
JS(Admn.)

Pl. Director
2001-2002
2001-2002
2001-2002

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28/5
2001
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2001

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

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

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

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

3. The other modes of recruitment (including that of 'promotion') prescribed in the Recruitment Rules/Service Rules would, however, continue to be adhered to as per the provisions of the notified Recruitment Rules/Service Rules.

4. The provisions of this Office Memorandum would be applicable to all Central Government Ministries/Departments/organisations including Ministry of Railways, Department of Posts, Department of Telecom, autonomous bodies – wholly or partly financed by the Government, statutory corporations/bodies, civilians in Defence and non-combatant posts in Para Military Forces.

5. All Ministries/Departments are requested to circulate the orders to their attached and subordinate offices, autonomous bodies, etc. under their administrative control. Secretaries of administrative Ministries/Departments may ensure that action based on these orders is taken immediately.

6. Hindi version will follow.

Harinder Singh

(Harinder Singh)

Joint Secretary to the Govt. of India

To,

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

"REGGELIND"

No. 12011/4/2000-Ad.IV

भारत सरकार
GOVERNMENT OF INDIAगृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYAभारत के गृह रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

Annexure R

नई दिल्ली, दिनांक 2/A, Mansingh Road,
New Delhi, the 14.02.2000To,
All DCOs,Subject : Filling up the post sanctioned for Census of India-2001.

Sir,

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

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

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

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

Yours faithfully,

M. R. Singh

(M. R. Singh)

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	-	1. Sri N.C. Sen 2. Sri B.L. Sarmah 3. Sri S.S. Hiramath
3.	Assistant Director Of Census Operations (T) (8000-13500)	3	-	3	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: - 1. Sri B.M. Talukdar 2. 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
					3. Sri G.K. Dutta 4. Sri A.C. Borgohain
5.	Statistical Investigator Gr. II (5500-9000)	4	4	-	4 posts sanctioned and earmarked for Directorate as a result of restructuring of Statistical cadre. The following incumbents are occupying the 4 posts: - 1. Sri R. Dihingia 2. Sri J.N. Bordoloi 3. Sri P.K. Borah 4. Sri B. Saikia.
6.	Statistical Investigator Gr. III (5000-8000)	10	9	1	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: - 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

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. Sri 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> <ol 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> <ol 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	-	Originally all the 19 posts are occupied on regular basis with the following incumbents: - <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> <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>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> <ol 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> <ol 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 Niranjana 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>

(62)

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 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> <p>1. Sri A.C. Gayan 2. Sri N.N. Pathak.</p>
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,

(67)

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.	Daftary (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:-

(22)

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.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 Sri B. Haloi has been promoted on adhoc basis against a temporary post of Daftry created for Census -2001. 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.
25.	Chowkidar (2550-3200)	6	6	-	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

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
<u>CANTEEN</u>					
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

(72)

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	<p>Out of 45 sanctioned posts 39 have been filled up on permanent basis with the following incumbents:</p> <p>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.</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
					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 Englang 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 POSTSStatus 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.

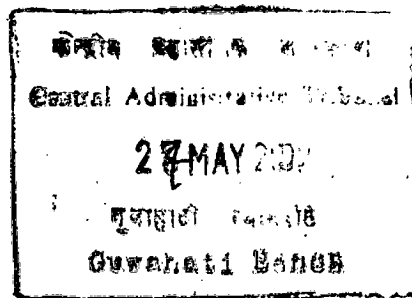
74

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	-	The following regular incumbents in the grade of UDC on core side have been promoted on adhoc basis: - 1. Smt. S.D. Purkayastha 2. Sri L.D. Joshi
6.	Confidential Assistant (5500-9000)	1	1	-	The following incumbent holding permanently the post in the permanent post of Sr. Stenographer on core side has been promoted: - 1. Sri K.N. Gogoi
7.	Sr. Drawing Assistant (6500-10500)	1	1	-	Filled up by temporary and adhoc promotion of Smt. S.K. Chetia, permanent Sr. Dratsman from core side.
8.	Sr. Technical Assistant (Printing) (5500-9000)	-	-	-	The post has been abolished w.e.f. 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
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	-	The posts have been filled up by promoting on adhoc basis. The following regular incumbents from the grade of Sr. Compiler on core side: - 1. Sri K.K. Bhattacharjee 2. Sri B.C. Kakoty 3. Sri N.C. Barman 4. Sri H.N. Kalita 5. Sri C. Chakraborty
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: -

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	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	



Filed by
Smti Ratna Bhattacharjee
Advocate
Through:
Dilip Baruah
Advocate
27.5.2002

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI

O.A. NO. 70/2002

Smti Ratna Bhattacharjee & Another.

- Vs - Applicant.

Union of India & Ors.

..... Respondents

In the matter of :

Rejoinder submitted by the applicants
in reply to the Written Statements
submitted by the respondents.

The applicants abovenamed -

Most Respectfully Sheweth :-

1. That your applicants have received the copy of the written statements submitted by the respondents, gone through it and understood the contents thereof. The applicants categorically deny the preliminary objections and submissions made in the written statement. This Hon'ble Tribunal passed the order dated 16.1.2001 in O.A. No. 385/2000 and directed the respondents to consider their case for appointment in the light of order passed in O.A. 415/99 (O.I. Singh - Vs- Union of India & Ors). The respondents challenged the order passed in O.A. No. 385/2000 in the Hon'ble Gauhati High Court and the Hon'ble

Ratna Bhattacharjee.

Hon'ble High Court by its order dated 5.3.2001 passed in WP(C) No. 929/2001 dismissed the writ petition as the matter had no merit. This order of Hon'ble Gauhati High Court has not been challenged in any Higher Court and hence, it has attained its finality. On the other hand the order passed in O.A. No.415/99, which was the basis of order passed in O.A. 385/2000, was also challenged, in the Gauhati High Court in WP(C) No. 2531/2001 (series). The Hon'ble Gauhati High Court by its final order dated 7.6.2001 also dismissed the writ petitioners and directed to carryout the orders passed by this Hon'ble Tribunal. By the said order it was also made clear that the respondents would offer the vacancies ~~the writ petition~~ to the retrenches according to their length of service. This direction was also made applicable to all retrenchees whether they were applicants in the Tribunal or not. This order has not been challenged in any Higher Court ; and that has attained its finality. This Hon'ble Tribunal also passed an order on 6.2.2002 in O.A. 142/2000 (Shri B. Das & others - Vs- Union of India & Ors) and directed to consider the case of those applicants in the line of the decision of Hon'ble Gauhati High Court. Therefore, the totality to ratio decided in all these cases are the same and are in conformity with the various decisions of the Hon'ble Supreme Court in such matters. Under these circumstances, the order of appointment dated 17.9.2001 were made in derogation/violation of the aforesaid judgements as passed by this Hon'ble Tribunal and the Gauhati High Court. These

Ratna Bhattacharyee.

applicants being similar by situated with the applicants in O.A. 142/2000 (now in O.A. 68/2002) are also entitled to be regularised/absorbed with those applicants against any available vacancies under the respondents.

The applicants also state that concept of doctrine of promissory estoppel is quite different and the doctrine has no application so far the order dated 17.9.2001 are concerned. In service contract, the employees are always in weaker side. The Hon'ble Apex Court in "Central Inland Water Transport Corporation Ltd & Anr. - Vs- Brojo Nath Ganguly & Anr". (reported in AIR 1986 SC 1571) has held that " the principle deducible from various precedents is that the Courts will not enforce and will, when called upon to do so, strike down an unfair and unreasonable contract, or an unfair and unreasonable clause in a contract, entered into between parties who are not equal in bargaining power. For instance, the above principle will apply where the inequality of bargaining power is the result of the great disparity in the economic stance of contracting parties. It will apply where the inequality is the result of circumstances, whether of the creation of the parties or not. It will apply, to situations in which the weaker party is in a position in which he can obtain goods or services or means of livelihood only upon the terms imposed by the stronger party or go without them. It will also apply where a man has no choice or rather no meaningful choice, but to give his assent to a contract or to sign on the dotted line in a prescribed or standard form or to accept a set of rules as part of the contract

Ratna Bhattacharyya

however unfair, unreasonable and unconscionable a clause in that contract or form or rules may be. The types of contracts to which the principle formulated above applies are not contract which are tainted with illegality but are contract which contain terms which are so unfair and unreasonable that they shock the conscience of the Court. They are opposed to public policy and required to be adjudged void."

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 applicants 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 judgement dated 6.2.2002. In the circumstances respondent Union of India is required to act in terms of the judgement dated 6.2.2002 and are duty bound to appoint the applicants being similarly situated in the suitable posts as per direction contained in the judgement referred to above.

PARAWISE REPLY OF THE WRITTEN STATEMENT

1. ~~xxxx~~ That your applicants 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

Ratna Bhattacharyee

the judgment and order passed by this Hon'ble Tribunal and High Court it would make it clear that this Hon'ble Tribunal passed a categorical direction for regular absorption of the applicants 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 applicants 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. The applicants being similarly situated are also entitled to such regular appointment.

It is further submitted that as per their own document Annexure - 9 & 10 in W.S. filed in O.A. 68/2002 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 in O.A. 68/2002 and 70/2002 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. Therefore it is quite clear from their own statement that at least three (3) regular posts of Assistant Compiler are available, as such respondents have no difficulty to absorb the applicants against the posts. But the respondents in violation of the order dated 16.1.2001 passed the impugned order of termination in respect of the present applicants. It also appears that

Ratna Bhattacharyee

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~~s~~ 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 6th 12th April 2002 on deputation basis. In the said advertisement it is stated that initially the will be appointment/on deputation 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 available with the respondents for consideration for appointment to the post of Data Entry Operator. Therefore respondents should consider the appointment of the applicants to the cadre of Assistant Compiler. Computer, LDC, UDC and also to the cadre of Data

Ratna Bhattacharya.

Data Entry Operator in terms of the judgment and order dated 6.2.2002 passed in O.A. No. 142/2000 as the applicants are similarly situated with those applicants. 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 passed orders only for consideration of absorption of the applicants against the temporary post of 2001 census. It is stated that question of appearing for interview for the applicants before the Staff Selection does not arise at this stage as the applicants 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 applicants 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 31.8.1999 passed in O.A. No. 284/97 a large number of Census employees who were initially recruited through Employment Exchange for 1991 Census alongwith the applicants and prior to the recruitment of the applicants have already been regularised without the approval of the Staff Selection Commission. One Smti. Ng. Makan, an applicant in O.A. 60/94, was regularised in permanent post with a clearance from SSC. This has been

Ratna Bhattacharyee -

admitted by the respondent in written statement, at para 10 (page 14). In this connection the applicants beg to refer 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 applicants 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. 11/67 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 applicants 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 applicants against the available existing vacant post of Assistant Compiler, LDC, Data Entry Operator.

Ratna Bhattacharya -

Copy of the judgment and order dated 31.8.1999 passed in O.A. No.284/97, letters dated 31.12.1996, 20.10.1997, 27.6.2000 and Employment News dated 4.12 April, 2002 are annexed as Annexure - A, B, C, D & E respectively.

2. That your applicants deny the statements made in paragraphs 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 and further begs to state that deputationists who are working as computer in fact junior to the applicants have been retained in service while services of the applicants have been terminated only on the ground that applicants were appointed following the Court Order. It is further submitted that the respondents have deliberately misinterpreted the judgment and order dated 16-1-2001, 7.6.2001 (High Court) 5.3.2001 (High Court) and 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 and 7.6.2001 passed by the Hon'ble High Court.

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

Verification.....

Ratna Bhattacharya.

V E R I F I C A T I O N

We, Shrimati Ratna Bhattacharjee , D/O late M.P. Bhattacharjee, aged about 42 years, resident of No.5, Ferryghat, Pandu, Guwahati-12, Dist. Kamrup (Assam) and Shri Karuna Ram Das, S/O late Holi Ram Das, P.O. & Vill. Borkhala, Dist. Nalbari (Assam) do hereby solemnly affirm and state that the statements made in para-2 - are true to my knowledge and belief, those made in para

-1- being matter of records, are true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. We have not suppressed any material fact.

And we sign this verification on this 27th day of May, 2002 at Guwahati.

Ratna Bhattacharjee

Deponents.

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI Bench.

Date of Order : This the 31st day of August, 1999.

Justice Sri D.H. Baruah, Vice-Chairman.

Sri G.A. Sangliya, Administrative Member.

Original Application No. 204 of 1997.

Sri Aban Nathani & 2 others. . . . Applicants.

- Versus -

Union of India & Ors. . . . Respondents.

Original Application No. 205 of 1997.

Sri Balen Kalita & another . . . Applicants.

- Versus -

Union of India & Ors. . . . Respondents.

Original Application No. 206 of 1997.

Sri Bipul Chandra Gogoi & another. . . . Applicants.

- Versus -

Union of India & Ors. . . . Respondents.

Advocate for all the applicants : S/Sri H.K. Sharma & S. Sharma.

Advocate for all the respondents : Sri A. Deb Roy, Sr.C.O.S.C.

ORDER

G.A. SANGLIYA, ADM. MEMBER.

These three Original Applications are disposed of by this common order for convenience. The brief facts in each O.A. are as follows:

O.A. 204/97 : The three applicants were appointed as Assistant Computer in the office of the Director of Census Operation, Assam, Guwahati in the scale of pay of Rs. 950-1500/- p.m. in December 1990. In their appointment letters it was indicated that the posts were purely temporary for 1991 census work and would be abolished on completion of the work and the incumbents will be retrenched and the appointments are ad hoc in nature and were likely to

continue upto 31.12.1993 only. The appointment could also be terminated before 31.12.1993 by giving one month's notice by either side or one month's emoluments in lieu thereof. The applicants were however continued in service. Efforts were made to absorb them in service and in the year 1993 they were directed to appear in the special qualifying examination conducted by the Staff Selection Commission during that year. The applicants could not qualify in the examination. Then later on the applicants came to know that their services were being terminated with effect from 31.12.1997 which was purportedly in pursuance of letter No. 1/2/97-RO(P) dated 1.12.1997, Annexure-5 and letter No. 12011/17/97-MIV dated 3.12.1997, Annexure-6.

O.A.No.705/97 : The applicants were initially appointed as Lower Division Clerk in 1991 in the office of the Director of Census Operation, Allahabad. According to the respondents the services of the applicants were terminated with effect from 31.12.1992 on completion of the particular 1991 census work. However, they were offered alternative employment in a Grade of Assistant Compiler on ad hoc basis with effect from June 1993 and they are continuing in the posts till date. In their appointment letters it was indicated that the posts were purely temporary for 1991 census work and would be abolished on completion of the work and the incumbents will be retrained and the appointments are ad hoc in nature and were likely to continue upto 31.12.1993 only. The appointments could also be terminated before 31.12.1993 by giving one month's notice by either side or one month's emoluments in lieu thereof. In December 1993 they were directed to appear in a special qualifying examination conducted by Staff Selection Commission. However, the applicants could not qualify in the examination. Then later on the applicants

13

came to know that their services were being terminated with effect from 31.12.1997 which was purportedly in pursuance of letter No. 1/2/97-RO(P) dated 1.12.1997, Annexure-6 and letter No. 12011/17/97-ADIV dated 3.12.1997, Annexure-7.

O.A.No. 286/97 : The applicants are Lower Division Clerk in the office of the Director of Census Operation, Assam, Guwahati. They were appointed in April 1991. In their appointment letters it was indicated that the posts were purely temporary and would be abolished on completion of the 1991 census work and they will be retrenched. In 1993 they were required to appear in a special qualifying examination conducted by the Staff Selection Commission. However, they could not qualify in the examination. Then later on the applicants came to know that their services were being terminated with effect from 31.12.1997 which was purportedly in pursuance of letter No. 1/2/97-RO(P) dated 1.12.1997, Annexure-4 and letter No. 12011/17/97-ADIV dated 3.12.1997, Annexure-5.

2. The contention of the applicants is that they were sponsored by the Employment Exchange and were appointed after being selected. They cannot be terminated in the manner sought to be done by the respondents. According to them they were not also required to appear in the qualifying test for regularisation of their services and their failure in that qualifying test in 1993 cannot be a ground for termination of their services.

3. We have heard counsel of both sides. It appears that upto December 1997 the respondents were open to consider regularisation of the services of the applicants. However, in the letter dated 3.12.1997 they had decided that the proposal for regularisation of the services of the applicants who could not pass the special qualifying examination conducted

By the Staff Selection Commission during 1993 cannot be agreed

14

to and further necessary action should follow. Without prejudice to the contention whether the applicants are to be subjected to the special qualifying examination, it is noticed that reasonable opportunity was not given to the applicants to prepare and appear in the said examination. Some of the applicants have stated that they were informed only on 21.12.1993 about the examination to be held on 26.12.1993. In such situation the failure of the applicants in the qualifying examination cannot be a ground to justify rejection of the proposal for regularisation of their services. We are of the view that it is fair and reasonable for the respondents to consider afresh the issue of regularisation of the services of the applicants. This should be completed within six months from the date of receipt of this order and till such final order is issued the services of the applicants shall not be disturbed.

The applications are disposed of. No order as to costs.

SC/- VICE CHAIRMAN

SC/- MEMBER (ADVI)

Certified to be true copy

20/12/1993

(11/12/1993)

18/11/93

No.DCO(E)205/92/PT.II/5777
 GOVERNMENT OF INDIA
 MINISTRY OF HOME AFFAIRS

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM : GUWAHATI-7

DATED GUWAHATI THE 31ST DECEMBER/96.

OFFICE ORDER

The following candidates are hereby appointed to the post of Data Entry Operators (Grade A) in the scale of pay of Rs.1150-25-1500/- p.m. on a purely temporary and on adhoc basis with effect from 1.1.97 (P.N.)

1. Shri Romaji Bhuyan
2. " Mono Ranjan Sarmah
3. " Purnananda Haloi
4. " Jiton Ch. Nath (OBC)
5. " Utpal Saktia (MOC)
6. Md. Zakir Hussain
7. Shri Dipak Baruah
8. " Pradip K. Das (SC)
9. " Porag Das

Their ad-hoc appointment will not bestow upon them any right to claim for regularisation to the post & in future and their services may be terminated at any time without assigning any reason thereof.

(A. PYTHUM)

JOINT DIRECTOR OF CENSUS OPERATIONS
 ASSAM : GUWAHATI

Date: 31.12.96

MEMO NO.DCO(E)205/92/PT.II/5777 - 808

Copy to:

1. The Pay & Accounts Officer (Census), New Delhi-2.
2. Asstt. Director of Census Operations (DO), Assam
3. Office Superintendent
4. All Sr. Supervisors
5. All Investigators
6. Accounts Branch
7. Establishment Branch
8. Person concerned.

(N.C. SEN) 31/12/

ASSTT. DIRECTOR OF CENSUS OPERATIONS
 ASSAM : GUWAHATI.

ANNEXURE - C

16
No.DCO(E)7/78/Vol.1X/
भारत सरकार

फोन, कार्यालय 31954
Phone, Office

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 the 20th Oct/97

To

The Registrar General, India,
2/A, Mansingh Road,
NEW DELHI-110011.

Sub:- Regularisation of ad hoc Lower Division
Clerks/Asstt.Compilers appointed during 1991
Census - Regarding.

Sir,

I am to state that during the 1991 Census quite a good number of persons sponsored by the Employment Exchanges were appointed to the posts of Lower Division Clerk and Assistant Compiler on purely temporary and ad hoc basis during the 1991 Census after proper screening. Though no post of Assistant Compiler was created in 1991, appointments were made against vacancies caused by promotion to the posts of Computer/Statistical Assistant/ Investigator created purely for the 1991 Census. In regard to the posts of Lower Division Clerk, a few were created purely for 1991 Census while there were also vacancies caused by promotion to the posts of U.D.C./Assistant created purely for the 1991 Census. When sanction of those posts created purely for the 1991 Census was discontinued from 01.01.94, there was a mass termination of services in both Group-C and D posts. But the services of those ad hoc LDCs/Asstt.Compilers who could be accommodated in the core posts were left untouched and are continuing till date on ad hoc basis because the results of the special examination conducted by the SSC in 1993, in which all of them had appeared, was not yet out and that the office required their service to complete editing and coding of the Individual Slips of West Bengal, compilation of C-10 table and by name of individual SC/ST.

But when the results of the Special Examination conducted by the SSC was declared sometime in the last part of 1994 or early part of 1995, none of them was successful. Their service could not be terminated firstly because they were still editing and coding the Individual Slips of West Bengal and secondly because the Honourable CAT had while vacating the Stay Order in O.A. No.269/93 ordered that appointment to any future vacancy be only from among the 17 (seventeen) applicants in the above O.A. It was, therefore, more beneficial to the office not to terminate the services of those ad hoc LDCs/ACs because of their long experience than to appoint inexperienced LDCs/ACs from among those 17(seventeen) applicants. Those ad hoc LDCs/ACs had done yeoman's service to this office and have become indispensable assets of this office. Despite their show of excellent discipline and high standard of efficiency, a sense of insecurity in service is lurking in their mind, which do at times effects their efficiency.

P:T:G:

Whereas those ad hoc employees appointed during the 1981 census were given three chances to appear in the special examinations conducted by the SSC during 1983 to 1986, the ad hoc employees appointed during the 1991 Census were given only one chance, which is quite unfair. Those employees who were appointed on ad hoc basis during the 1981 Census but failed to qualify in the special examinations conducted by the SSC were, with the approval of the Department of Personnel and Training as communicated vide your letter No.18/18/90-Ad.IV, dt. 12.3.1991, regularised during 1991.

It is, therefore, requested that the Department of Personnel and Training may kindly be requested to permit us, as a special case, to regularise our 2(two) ad hoc Lower Division Clerks and 5(five) Assistant Compilers.

Yours faithfully,

(A. PYRTUJI)
JOINT DIRECTOR OF CENSUS OPERATIONS
ASSAM : GUWAHATI.

Spare Copy
for the
Staff - Side

NO.DCO(E) 24/97/7570

भारत सरकार
GOVERNMENT OF INDIA

विश्व मंत्रालय
MINISTRY OF HOME AFFAIRS/ORDIA MANTRALAYA

OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS, ASSAM

वि. ए. रो. गुवाहाटी, गुवाहाटी-781007
G. H. ROAD, ULUDARI, GUWAHATI-781007

Phone, Director: 547396 (O)
382121 (R)
Off. Supdt: 526994
Fax: 0361-547396

दिनांक गुवाहाटी

Dated Guwahati the 27th June/2000

OFFICER ORDER

In compliance with the Hon'ble Central Administrative Tribunal, Guwahati Bench judgement passed in OA No.284/97 and in pursuance of R.G.I.'s letter No.13014/4/98 Ad.IV dt.21.6.2000, the following Asstt. Compiler's are hereby appointed temporarily on regular basis in the scale of pay of Rs.3050-75-3950-80-4590/- p.m. with effect from the date of issue of this order.

Sl.No.

Name

Designation

1.	Md. Shah Nawaz Haque	Asstt. Compiler
2.	Shri Aboni Borthakur	"
3.	Paraq Das	"

The adhoc service already rendered by them will not be counted for promotion, seniority etc.

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

Memo No.DCO(E)24/97/7571-78 Date : 27.6.2000

- Copy to :
1. The Registrar General, India, 2A, Mansingh Road, New Delhi-11 with reference to this letter No. 13014/4/98 Ad.IV dt.21.6.2000.
 2. The Pay & Accounts Officer (consus) New Delhi-2
 3. The Registrar, Central Administrative Tribunal Guwahati bench, Guwahati.
 4. The Estt. branch.
 5. The Accounts branch.
 6. Personal file/service Book of person concerned
 7. Person concerned.

(A. MEDHI) 27.06.2000
ASST. DIRECTOR OF CENSUS OPERATIONS
ASSAM : GUWAHATI.

INSTITUTION OF FORESTRY RESEARCH ATION (ICFRE), DEHRADUN Advt. No. 1/2002-ICFRE

Announcement under Ministry of Environment & Forests,
and application from amongst the eligible officers under
Sector Undertakings/Autonomous bodies/Statutory
filling up the following post by transfer on deputation in
institutes under M:-

Post: Financial Advisor and Chief Accounts Officer
Rs. 14,300-400-16,300/- p.m. plus usual allowances
Admissible under rules.

Place of Posting: ICFRE (Hq.), Dehradun

Eligibility: 1. An Indian Audit & Accounts service officer
having 10 years experience with respect of year
of allotment.

OR

2. An officer of Sub-ordinate Accounts service
under Govt. of India having 16 years of
experience including atleast 7 years in the grade
of Rs. 10000-325-15200 with respect to year of
allotment.

OR

3. Fellow of Institute of Cost/Chartered Accountant
of India or equivalent degree with 12 years
experience in audit and accounts and budget in
Govt./Semi Govt./Autonomous organisations.
The experience shall be counted after obtaining
the prescribed degree.

Category A-2

Name of Post: Finance Officer
Pay Scale: Rs. 7450-225-11,500/- p.m.
Place of Posting: One post of Finance Officer each at AFRI, Jodhpur
and IVST, Bangalore.

Eligibility: Officers holding post of Asstt. Accounts officer with
5 years experience or equivalent in the Indian Audit
and Accounts Department, Railway Deptt., Defence
Accounts, Govt./Autonomous bodies/undertakings.

Category A-3

Name of Post: Forest Range Officers
Pay Scale: Rs. 6500-200-10,500/- p.m.
Place of Posting: (i) FRI, Dehradun - 2 Posts
(ii) AFRI, Jodhpur - 1 Post
(iii) IFRI, Coimbatore - 2 Posts
(iv) IVST, Bangalore - 1 Post
(v) RFRI, Jorhat - 2 Posts
(vi) TFRI, Jabalpur - 1 Post
(vii) IFP, Ranchi - 3 Posts
(viii) CFR & HRD, Chhindwara - 2 Posts
(ix) FRI, Shimla - 2 Posts

Eligibility: Person holding the post of Forest Range Officer with
3 years experience or Dy. Ranger with 5 years
experience in the State Forest Departments.

GENERAL INSTRUCTIONS:

- Applications with complete bio-data of the candidate should be
submitted to the Secretary, Indian Council of Forestry Research
& Education, P.O. New Forest, Dehradun together with a
Demand Draft of Rs 100/- drawn in favour of Secretary,
ICFRE on or before 16.08.2002. Applications received without
signature of the applicant or which are not accompanied by the
prescribed fee shall be summarily rejected.
- The Council will in no case be responsible for non-receipt of
applications or any delay in receipt thereof on any account
whatsoever. No applications received after the prescribed last
date will be entertained under any circumstances and all the
late applications will be summarily rejected.
- For in-service candidates, the application should be routed through
proper channel. The concerned Department/ Organisation should
enclose Vigilance Clearance report and photocopies of ACRs
gradings of the officer for the last five years from 1997 onwards
while forwarding the applications of the candidates. However, an
advance copy can be submitted alongwith Demand Draft.
- The deputation period would initially be for a period of three years
or till superannuation whichever is earlier as per rules.
- The Council reserves the right to relax the qualifications/experience
in case of exceptionally qualified and meritorious candidates.
- The Council reserves the right not to fill up any of the vacancy
advertised if the circumstances so warrant.

EN 1/34

RAILWAY RECRUITMENT BOARD MUMBAI

Divisional Office Compound, Mumbai Central, Mumbai-400 008.

WINTER TEST HEAT OF: Technician - III (Engg. wing) (TAC wing) (EL) (Mech. Dept)
GRADE: Rs. 3050-4590 (HSRP) Category No. 02 E.N.O. 1/2001
DATE OF ISSUE OF RESULT: 16/03/2002.

On the basis of written test held on 24/02/2002 for the above post, the
following candidates have been provisionally qualified for being called for
verification of their original certificates in support of their qualification,
age, community & verification of their original admit card, photograph,
signature, handwriting etc.

The roll numbers are arranged in ascending order.

0200167 0200307 0200338 0200447 0200617 0200724 0200726
0200808 0200968 0201247 0201448 0201495 0201621 0201834
0201641 0201678 0201760 0201809 0202182 0202241 0202301
0202455 0202712 0202763 0202764 0202784 0203033 0203245
0204485 0205281 0205474 0205511 0205625 0205888 0206156
0206236 0206538 0206727 0206819 0206941 0207402 **Total: 41**

The candidates are directed to report for the above said verification
on 30/04/2002 at 10.00 hrs. in RRB office, Mumbai Central. They are
also being individually intimated.

The candidates are required to bring all their original mark sheets
and certificates of 9.5 C and III Act Apprenticeship in the Diesel
Mech/Electrical trade. The candidates belonging to SC/ST and OBC
should bring their original caste Certificate in prescribed format. In
case of OBC candidates the Caste Certificate should be current
and not more than one year old and should have clause of non-
creamy layer. Candidates should also bring their original call letter of
written examination along with the call letter of verification. Any
candidate coming for the verification without complete documents
will be returned back.

While every care has been taken in preparing the result, the Railway
Recruitment Board reserves the right to rectify errors and omissions,
if any.

CHAIRMAN

EN 1/38

FACULTY OF BUSINESS STUDIES ALLAHABAD AGRICULTURAL INSTITUTE - DEEMED UNIVERSITY

ALLAHABAD - 211007 (U.P.) INDIA. Ph. 0532-695020, 697221 Fax 0532-695639 E-mail: registrar@aadu.org WebSite: www.aaduu.org

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Agri-business Mgt (MABM) - 4 Semesters
UNDER GRADUATE PROGRAMME: BBA (Hons) - 8 Semesters

FACULTY OF HUMANITIES, SOCIAL SCIENCES AND EDUCATION

POST GRADUATE PROGRAMMES: (1) M Sc Anthropology - 4 Sems
(2) Master of Library & Information Science (MLIS) - 2 Semesters
UNDER GRADUATE PROGRAMME: Bachelor of Library & Information
Science (B LIS) - 2 Semesters

FACULTY HEALTH AND MEDICAL SCIENCES

POST GRADUATE PROGRAMMES: (1) Master of Public Health Branch - I
(Prog Design & Management) (MPh) - 4 Sems (2) Master of Public Health
Branch - II (Report Health) (MPh) - 4 Sems (3) Master of Public Health Branch -
III (Innov and Ext) (MPh) - 4 Sems (4) Master of Public Health Branch - IV (Health
Sys Mgt) (MPh) - 4 Semesters

UNDER GRADUATE PROGRAMMES: (1) B Sc Medical Lab Technology
(1 Sc M L T) - 8 Sems (2) B Sc Health Science - 8 Sems (3) B Pharm - 8 Sems

FACULTY OF SCIENCE

POST GRADUATE PROGRAMMES: (1) M Sc Biochemistry - 4 Sems
(2) M Sc Biotech - 4 Sems (3) M Sc Microbiology - 4 Sems
(4) M Sc Mathematics - 4 Semesters

UNDER GRADUATE PROGRAMMES: (1) B Tech Biotech (Genetic
Engineering) - 8 Sems (2) B Tech Biotech (Biochemical Technology) - 8 Sems
(3) B Tech Biotech (Industrial Microbiology) - 8 Sems (4) B Sc (Hons)
Microbiology - 8 Sems (5) B Sc (Hons) Biochemistry - 8 Sems (6) B Sc (Hons)
Physics - 8 Sems (7) B Sc (Hons) Mathematics - 8 Semesters

• B Ed programme most likely to be started by July 2002 (subject to the
approval of NCTE) - look for advertisements in April - May 2002

Application Forms and Prospectus are available at the University counter on
payment of Rs 250/- or by post through bank draft of Rs 300/- in favour of
Registrar, Allahabad Agricultural Institute - Deemed University, payable at SBI,
All Branch (Code: 2506) Last date of receiving completed forms without
late fee: 20th May 2002 All India Entrance Test will be held on 15th June 2002.

Advt. No. Adm A 2002-3 Dr. Sarvjeet Herbert (Registrar)

EN 1/10

No. DCO(E)205/92/PI.IV/1799

Government of India

Ministry of

Home Affairs

**Office of the Director of
Census Operations, Assam
G.S. Road, Ulubari
Guwahati - 781007**

It is proposed to fill up few posts of Data
Entry Operator, Grade 'B' in the scale
of pay of Rs. 4500-125-7000/- P.M. in
the Data Centre of the Directorate of
Census Operations, Assam, G.S.
Road, Ulubari, Guwahati - 7 by
appointing suitable officials of Central/
State Govt. by transfer on deputation
basis. The initial appointment will be for
a period of one year or till such time the
posts are filled by direct recruitment
subject to the approval from the
Screening Committee whichever is
earlier. The eligibility conditions are
indicated below:

Name & classification of post: Data
Entry Operator, Grade 'B'.
**General Central Service - Group - C -
Non Gazetted - Non Ministerial.**
Scale of Pay: Rs. 4500-125-7000/-
P.M.

Eligibility Conditions:

(a) Central/State Government
Employees
holding analogous posts or with 5(five)
years regular service in the pay scale
of Rs. 4000-100-6000/- P.M. or
equivalent.

(b) Possessing the qualifications and
experience prescribed for direct
recruits.

(i) Degree of a recognised University
or equivalent.

(ii) One year certificate of proficiency
in Computer from a recognised Govt.
Institution preferably 'O' level certificate
recognised by Deptt. of Electronics in
Govt. of India.

(iii) A speed not less than 8000 key
depressions per hour for data entry
work.

(iv) should qualify in the personal
Computer skills test

Note: Preference will be given to
those who possess Degree with
Science, Mathematics, Commerce,
Statistics, Economics.

The pay of the official selected for the
post will be regulated in accordance
with the provisions contained in the
Department of Personnel & Training's
O.M. No. 2/12/87-Extt. (Pay II) dated
29.4.88 as amended from time to time.

The period of deputation including the
period of deputation in another ex-cadre
post held immediately preceding in the
same or other Organisation/Department
shall ordinarily not exceed 3(three)
years.

Applications of suitable officials who are
eligible, willing and who can be spared
may be forwarded to the undersigned
in the proforma as per Annexure-I
within six weeks from the date of
publication of advertisement
alongwith their CR Dossiers for the last
5(five) years and vigilance clearance
certificate. The applications received
after the prescribed date or without
CR Dossiers/Vigilance Clearance will
not be entertained.

Director of Census Operations
1. Name: Assam, Guwahati
2. Date of Birth: Annamalai
3. Educational & other Qualifications:
4. Date of Entry into Govt. Service:
5. Designation of the post at present:
6. Date from which the present post is
held on regular basis:
7. Whether permanent/temporary:
8. Whether SC/ST:
9. Scale of pay of the present post:
10. Present pay:
11. Details of experience:
1. Post held:
2. Period: From To
3. Scale of pay:
4. Nature of work done in details:
Date: Signature of the 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 either pending or contemplated
against the applicant and he/she is clear
from the vigilance angle.

Head of Office
davn/3104(127)2001

EN 1/58

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For Admission send Rs. 250/- for Prospectus & Admission form before 25.4.2002 by DD/MO to:

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LUDHIANA (Punjab)
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*COURSES ARE AVAILABLE BY CORRESPONDENCE/PART TIME ALSO

EN 1/74.

NATIONAL INSTITUTE OF NUTRITION

(INDIAN COUNCIL OF MEDICAL RESEARCH)
NATIONAL NUTRITION MONITORING BUREAU & UNIT
Jamal Osmania Rd, Yamana, Hyderabad - 500 007

NNMB/INTERIA/P/2001-02/ Dated: 22-03-2002

EMPLOYMENT NOTICE
Applications are invited from the eligible candidates for the following
posts for a duration of 1 year 6 months on contract basis:

Sl. No.	Designation / Consolidated Pay	No. of posts
1.	ASST. RESEARCH OFFICER Essential Qualifications: M.Sc., 1st Div. In Life Sciences/Antropology and Proficiency in Telugu Desirable: Experience in carrying out Community based surveys Consolidated pay @ Rs. 9,295/- p.m.	1 (UR)
2.	RESEARCH ASSISTANT Essential Qualifications: M.Sc., In Sociology/ Foods & Nutrition and Proficiency in Telugu Consolidated pay @ Rs. 6,435/- p.m.	1 (SC)

Candidates must be willing to carry out extensive tours in rural areas of Andhra
Pradesh in collection of data. Eligible candidates may send their bio data with
copies of Certificates within 21st April, 2002 addressed to Administrative Officer,
National Nutrition Monitoring Bureau, at National Institute of Nutrition, Jamal
Osmania, Hyderabad-7. Age should be below 28 years and relaxation in case of
SC/ST/OBC candidates as per Rules

Sd/-
ADMINISTRATIVE OFFICER

EN 1/103

5 AUG 2002
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI.

OA No. 70 of 2002

Smti Ratna Bhattacharjee & Another - Applicant

- Vs -

Union of India & Ors.

- Respondents

IN THE MATTER OF :

An additional statement in connection
with the rejoinder submitted by the
applicants in reply to the written
statement of the respondents :

The applicant above-named

Most Respectfully Sheweth :

1. That the applicants submitted their rejoinder in reply to the written statements submitted by the respondents. In the said rejoinder the applicants pointed out categorically in paragraph 1 at page 6 that there are six clear vacancies for the post of Data Entry Operator. It was also categorically stated that the applicants at least could be absorbed/appointed/accommodated against such existing vacancies of Data Entry Operator.
2. That in view of the fact of existence of such vacancies for the post of Data Entry Operator and the applicants are willing to serve against those posts, the Hon'ble Tribunal was pleased to direct the Respondents not to fill up those vacancies of Data Entry Operator. The said order was passed on 20-6-2002.

Filed by the Petitioner
Through:
Dilip Baruah
Advocate

5/8/2002

3. That the applicants being out of job, with the hope that Computer education with some workable knowledge of Data Entry operation etc., may help them in getting job, the applicants joined the course of Computer education and learned the process of Data Entry Operation etc. from the Institution namely Kamrup Info Solution Pvt Ltd. On completion of training for six months, the said Institute issued the Certificates on 4-6-2002.

The copy of the aforesaid Certificates is annexed as Annexure - F and G, respectively.

4. That the applicants are now possessing the knowledge of Computer operation particularly on Data Entry, Module, Windows, M.S. Word, M.S. Excel, M.S. Power Point, Internet etc. Therefore, they are quite eligible for appointment against the posts of Data Entry Operator.

It is also pertinent to mention here that the Comptroller & Auditor General of India, vide Circular No. NGE/68/1998, No. 1334 NGE(App)/55-98 dated 16-12-1998 laid down the relaxed norms and eligibility criteria for appointment to the post of Data Entry Operator. According to said Circular, a Matriculate Clerks with two years regular service in the grade who possess the speed of not less than 8,000 key depressions per hour for Data Entry works shall also be considered for appointment to the posts of Data Entry Operators. Under these circumstances, the applicants being graduate with experience both in service and in Computer operations are doubtlessly eligible for appointment against the said posts of Data Entry Operators.

5. That the foregoing statements may be treated as statements made in the rejoinder and also may be considered while hearing the matters on merit.

6. That this petition has been made bonafide and for proper adjudication of the matter.

In the premises aforesaid, it is, therefore, prayed that Your Lordships would be pleased to hear the parties, peruse the records and shall also be pleased to direct the respondents to consider the case of the applicants for appointment as Data Entry Operator against the existing vacancies and or pass such further or other order or orders as Your Lordships may deem fit and proper.

V E R I F I C A T I O N

VERIFICATION

We, Smti Ratna Bhattacharjee, D/o Late M. P. Bhattacharjee, aged about 42 years, resident of No. 5 Ferryghat, Pandu, Guwahati-12, Dist. Kamrup, (Assam), and Sri Karuna Ram Das, S/o Late Holi Ram Das, P.O. & Vill. Borkhola, Dist. Nalbari, (Assam), do hereby solemnly affirm and state that the statements made in Para 1, 2, 5 and 6 - are true to my knowledge and belief, those made in Para 3 and 4 being matter of records and true to my information derived therefrom and the rest are my humble submission before this Hon'ble Tribunal. We have not suppressed any material facts.

And we sign this Verification on this, the 5th day of August, 2002 at Guwahati.

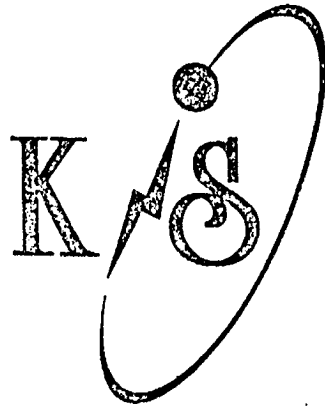
Ratna Bhattacharjee
Sri Karuna Ram Das

DEPONENTS

KIS COMPUTERS

(A DIVISION OF KAMRUP INFO SOLUTIONS PVT. LTD.)

R. G. Baruah Road, Guwahati - 781 005



Certificate

This certificate is awarded to Ratna Bhattacharjee
on the 4th day of the month June
in the year two thousand and Two for successfully
completing the course of Certificate In Computer
operations (CCO) (Six Months) from our centre.

MODULES COVERED: Data Entry Modules:

Windows, MS-Word, MS-Excel
MS-Powerpoint, Internet.

Kamrup Info Solutions Pvt. Ltd.

 Director

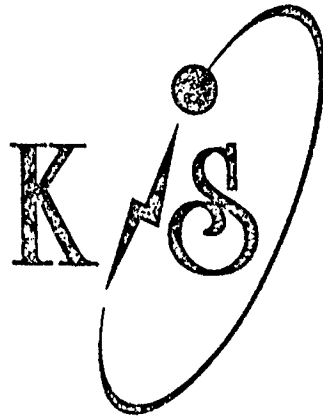
DIRECTOR

Attested
D. Baruah
Advocate

KIS COMPUTERS

(A DIVISION OF KAMRUP INFO SOLUTIONS PVT. LTD.)

R. G. Baruah Road, Guwahati - 781 005



Certificate

This certificate is awarded to Mr Karuna Ram Das
 on the 4th day of the month June
 in the year two thousand and Two for successfully
 completing the course of Certificate In Computer
operations (CCO) (Six Months.) from our centre.

MODULES COVERED: Data Entry Modules:

Windows, MS-Word, MS-Excel
 MS- Powerpoint, Internet

Kamrup Info Solutions Pvt. Ltd.

 Director

DIRECTOR

Attested
D. Baruah
Advocate