

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.272 of 2000

Jabalpur, this the day of 4th February, 2004

Hon'ble Shri M.P.Singh - Vice Chairman.

Hon'ble Shri G.Shanthappa, Judicial Member

1. Jai Prakesh Sharma, son of
Shri P.R.Sharma, Occ:NIL, R/o 205,
P.P.Colony, Polypather, Jabalpur.
2. Brindavan Kesharwani, son of Shri
Gopal Das Keshwarni, aged about 37 years,
Occu:Nil, R/o Gourighat Road, Jabalpur - APPLICANTS

(By Advocate - Shri Praveen Verma through Shri Deepak Nema)

Versus

1. Union of India through : Secretary,
Ministry of Census, New Delhi.
2. Director of Census Operation, M.P.Bhopal,
Through: The Dy.Director of Census Operation,
Jabalpur.
3. State of Madhya Pradesh through: Secretary,
Census Department, Vallabh Bhawan, Bhopal - RESPONDENTS

(By Advocate- Shri S.C.Sharma through Shri Harshit Patel)

O R D E R

By M.P.Singh, Vice Chairman -

By filing this Original Application, the applicants have sought a direction to the respondents to absorb the applicants in any of the vacant posts as per their qualifications with all consequential benefits.

2. The brief facts of the case are that the applicant no.1 was appointed as Compiler on 25.6.1991 while applicant no.2 was appointed on 2.4.1991 in the Office of Director of Census Operations, Madhya Pradesh, Bhopal, which is a Central Government organisation. According to the applicants, they were continued to work much beyond the term of the agreement. The services of the applicants were terminated vide orders dated 10.4.1992 (Annexure-A-2 colly.). The applicants alongwith similarly placed employees had filed O.A.No.88 of 1994 which was disposed of vide order dated 29.8.1995 (Annexure-A-3) wherein it was directed that

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"if and when fresh vacancies arise, they may apply for the same and if they fulfil the necessary criteria under the instructions issued, their cases may be considered". The applicants have alleged that since no action has been taken to absorb the services of the applicants, they have filed this O.A.

3. Heard the learned counsel for the parties and perused the records.

4. In the earlier OA 88/1994 filed by the applicants, the Tribunal in para 12 of the order has observed as under-

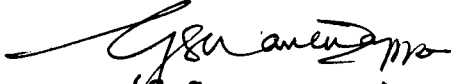
"In the instant case, the employees had accepted the job with open eyes knowing full well that the employment was of a temporary nature and their services would come to an end after the fixed periods of appointment and as such they cannot claim right to be absorbed. However, some concessions have been made available to the persons who have worked for the census subject to fulfilment of the norms prescribed for the same. None of the petitioners have said that even these concessions have not been made available to them, and in the absence of any proper averments, this Tribunal is not in a position to grant any relief to the petitioners in that regard. The Supreme Court has decided the matter directing that the petitioners may be considered when fresh appointments are made if they fulfil all other norms laid down in connection with the posts in question, that is to say, no right was conferred on them automatically to be absorbed or regularised. We, therefore, following the judgment of the Supreme Court in Dinesh Kumar Saxena's case (Civil Appeal No. 731-69 of 1994) hold that no right is conferred on the petitioners for regularisation or absorption. However, if and when fresh vacancies arise, they may apply for the same and if they fulfil the necessary criteria under the instructions issued, their cases may be considered. This Tribunal had also considered the matter in OA 286/95 decided on 13.7.95 relying on the decision of Dinesh Kumar Saxena's case (supra) and we do not find any reason to differ from the said decision. These petitions are accordingly disposed of".

5. As the applicants have already approached the Tribunal by way of the aforesaid OA against their termination which had been disposed of in the above terms and now they cannot be permitted to ask for their absorption as this will be hit by the principle of res judicata. The applicants have stated that the respondents have not complied with the directions issued in the aforesaid OA as their services have not yet been regularised. For this, we may observe that the

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applicants could have approached the Tribunal within a period of one year through MA for execution of the order. The present OA has been filed after four years of the order dated 29.8.1995 passed in OA 88/1994.

6. As the Tribunal in the earlier OA 88/1994 filed by the applicants has already held that the applicants have no right for regularisation and absorption, we cannot again readjudicate the same matter. In this view of the matter, the OA has no force and is dismissed. No costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

rkv.

*Forwarded
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6-2-04*

सूचना सं. ओ/एच/..... रजिस्ट्रार, दि.....
प्रतिष्ठित
(1) सचिव, उच्च न्यायालय, जयपुर, जयपुर
(2) अध्यक्ष, जयपुर, जयपुर के कार्यालय
(3) सचिव, जयपुर, जयपुर के कार्यालय
(4) सचिव, जयपुर, जयपुर के कार्यालय
सूचना सं. ओ/एच/..... रजिस्ट्रार, दि.....
उप रजिस्ट्रार 112/...

Praveen Verma, A.C.
SC Sharma, A.C.