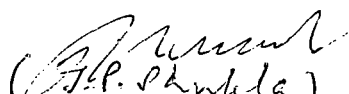


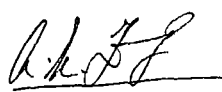
9.12.07

Mr. P.V. Satti, Counsel for applicant.
Mr. Karish Bharti, proxy counsel for
Mr. Kunal Rawat, Counsel for respondents.

Heard the learned counsel
for the parties.

The OA stands disposed of by
a separate order.


(J.P. Shukla)
M(A)


(A.K. Yogi)
M(F)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 04th day of December, 2007

ORIGINAL APPLICATION NO.59/2006

CORAM :

HON'BLE MR.JUSTICE A.K.YOG, JUDICIAL MEMBER
HON'BLE MR.J.P.SHUKLA, ADMINISTRATIVE MEMBER.

Chittar Mal,
Chowkidar
O/o Director Census Operation,
6B, Jhalana Doongri,
Jaipur.

... Applicant

(By Advocate : Shri P.N.Jatti)

Versus

1. Union of India through
Registrar General Census,
2/A Mansingh Road,
New Delhi.
2. Director,
Directorate of Census Operation,
6b, Jhalana Doongri,
Jaipur.

... Respondents

(By Advocate : Ms.Kavita Bhati, proxy counsel for
Shri Kunal Rawat)

ORDER (ORAL)

PER HON'BLE MR.JUSTICE A.K.YOG

Heard learned counsel for the applicant,
Mr.P.N.Jatti, Advocate, and Ms.Kavita Bhati, Advocate,
by

holding brief of Shri Kunal Rawat, Advocate, learned counsel representing the respondents.

2. Without considering the contentions of the parties on the merit of the case, we find that, as an admitted fact, representation filed by the applicant on 17.5.2005 (as pleaded in para-1 of the OA) has not been decided as yet. The specific averment to this effect has not been denied/rebutted by the respondents in para-1 of their reply/counter-affidavit.

3. Considering the nature of the case, we are of the opinion that the departmental authorities shall be in a better position to appreciate the contentions of the applicant as the same may require perusal of original service record, etc. and, therefore, it will be expedient for the departmental authorities to decide the contention of the parties.

4. Through this OA, the applicant has prayed for a writ/order or direction to the respondents to allow 1st ACP to the applicant w.e.f. 9.8.1999 with all consequential benefits.

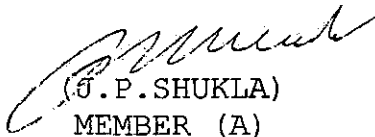
5. The above relief is in the nature of claiming a writ of mandamus. For issuing a writ of mandamus the basic principle is that the aggrieved party has approached the concerned authority for granting relief but it is denied.

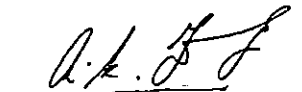
6. In view of the above, we direct the applicant to approach the concerned competent authority to get his representation decided so that higher authority/

Tribunal/Court is in a position to find out the reason to deny the relief to the applicant or otherwise grant the relief and leaving no occasion for the applicant to approach higher authority/Court/Tribunal.

7. Consequently, we direct the applicant to file a certified copy of this order alongwith additional representation, if so advised, before the concerned competent authority to decide his representation (referred to in para-1 of the OA) within four weeks from today and if certified copy of this order is filed, as contemplated above, the said authority shall decide the representation/additional representation, (as the case may be) by passing a reasoned/speaking order meeting the contentions of the applicant made in the said representation/s, exercising its unfettered representation in accordance with law, within two months of receipt of the certified copy, as stipulated above. The decision taken shall be communicated forthwith to the applicant by registered A.D. post.

8. The OA is allowed by molding the relief, as indicated above. No order as to costs⁰⁴.


(J.P. SHUKLA)
MEMBER (A)


(A.K. YOG)
MEMBER (J)

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