

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

ORIGINAL APPLICATION NO. 511/2010

Order Reserved on: 22/04/2015

Date of Order...07.05.2015.....

CORAM:

Hon'ble Mr. Justice Harun Ul Rashid, Judicial Member

Hon'ble Mr. R. Ramanujam, Administrative Member

1. Dr. D.K. Surana S/o Shri K.L. Surana, aged 54 years, presently working as Assistant Director (Data Centre) Directorate of Census Operations, 6-B, Jhalana Dungari Jaipur (Rajasthan).R/o 297, Barkat Nagar, Tonk Phatak, Jaipur.
2. G.B. Goswami S/o SHri K.B. Goswami, aged 53 years, Resident of IV/11, Nirman Vihar-I, Secor-2, Vidhyadhar Nagar, Jaipur presently working as Assistant Director (Data Centre) Directorate of Census Operations, 6-B, Jhalana Dungari Jaipur (Rajasthan).
3. G.S. Raiger (SC) S/o Shri R.C. Raiger, aged 52 years, resident of 7, Sunder Vatika, Tonk Road, Sangam, Jaipur presently working as Assistant Director (Data Centre) Directorate of Census Operations, M.P., Jail Road, Arrera Hills, Bhopal.
4. R.L. Meena S/o Shri G.R. Meena, aged 49 years, resident of 26, Mahesh Nagar Extension, Jaipur presently working as Assistant Director (Data Centre) Directorate of Census Operations, Gujarat, Sector-10-A, Gandhi Nagar.

..... Applicants

(By Advocate Mr. N.C.Goyal)

V E R S U S

1. Union of India through the Secretary to the Govt. of India, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi.
2. The Registrar General of India, Government of India, Ministry of Home Affairs, 2/A, Mansingh Road, New Delhi-110011.

3. The Union Public Service Commission, through its secretary, Shahjahan Road, New Delhi.
4. Director, Census Operations, Jhalana Dungri, Office of Director, Census Operations, Jaipur.
5. The Dy. Director, Office of Registrar General of India, Ad.-III Section, Room No. 114, Shiv Bhawan, R.K. Puram, New Delhi-110066.

.....Respondents

(By Advocate Mr. Mukesh Agarwal)

ORDER

(Per Hon'ble Mr. R.Ramanujam, Administrative Member)

1. Applicants are working as Assistant Director (Data Centre) in the Directorate of Census Operations at different places. They have moved a joint application against the order bearing ref. No. 1/3/2002-AD-III dated 25.2.2003 issued by the Registrar General of India by which they had been placed on promotion on the post of Assistant Director (Data Centre) (Group-A) on a temporary basis. Earlier the same authority had by order bearing ref. No.1/3/2002-AD-III dated 18.12.2002 had promoted the applicants on the same posts in the pay scale of Rs.8000-275-13500 on a regular basis. Subsequently, the applicants' temporary status was continued on an annual basis by various orders.

2. The impugned order is, however, an order bearing No. 1/12/2010-AD.III dated 22/07/2010 wherein it has been stated that the applicants would continue for a further period

of one year from 01/04/2010 to 31/03/2011 or until further orders against the temporary posts sanctioned for Census of India 2001. It is also stipulated in this order that the officer concerned would automatically stand reverted to the post of Senior Supervisor w.e.f. 01/04/2011 even if no separate order of reversion was issued in the event of non-continuation of posts beyond 01/04/2011. The applicants contend that the initial order dated 18/12/2002 by which they had been promoted on the post of Assistant Director (Data Centre) on a regular basis was in accordance with the rules notified in the Gazette of India (Annexure P/6). The subsequent order dated 25/02/2003 (Annexure P/8) superseding the regular promotion of the applicants as Assistant Director on temporary basis was illegal, arbitrary and violative of article 14 and 16 of the constitution of India as well as and the rules of the office of the Registrar General of India. The applicants state that they had the requisite seniority to be promoted on a regular basis and there was no justification to change their regular promotion into temporary promotion. The applicants represented to the authorities concerned on 28/08/2010, but their representation was rejected on 07/10/2010 stating that the posts of Assistant Director (Data Centre) were created to meet the requirement of the Census of India 2001 on a temporary basis and therefore they could not be promoted on a regular basis.

3. The respondents in their reply have pointed out that the order dated 25/02/2003 (Annexure P/8) whereby the previous order dated 18/12/2002 (Annexure P/7) was superseded was in respect of those posts on which the promotions could not be made on regular basis. These posts were temporary in nature, sanctioned for the purpose of census operations of 2001 for a period of one year only. The officials promoted to the post of Assistant Director (Data Centre) willingly accepted the promotion knowing full well that these were temporary posts and in the event of discontinuation of these posts they were liable to be reverted to the post of Senior Supervisor. Their representation against this order as well as the present OA itself are hopelessly time barred due to delay and accordingly their claim deserved to be dismissed on this ground alone. They further pointed out that even after superseding the previous erroneous order and treating the promotion of the applicants as temporary, the applicants have not been subjected to any adverse consequences. They continued to occupy the level of Assistant Director without being disturbed as the temporary posts continued to be extended on a year to year basis.

4. We have heard the arguments of the learned counsels for parties and perused the documents produced along with the application and the reply of the respondents. The learned counsel for the applicant argued that although the grievance of the applicants arose from the order issued on 25/02/2003

that altered their status from regular to temporary, their application could not be termed as time barred as the impugned order dated 22/07/2010 subsumed all the previous orders issued in this regard. The impugned order gave rise to a fresh cause of action on the basis of which this application has been filed on 18/11/2010. As for the merits of the case, he contended that the recruitment rules which were issued under article 309 of constitution of India and had the force of law clearly stipulated that the number of posts of Assistant Director (Data Centre) to be fifteen. Therefore, the respondents were not justified in making a temporary promotion on regular posts, especially after following the due procedure for regular promotion.

5. The learned counsel for the respondents stated that although fifteen posts of Assistant Director (Data Centre) had been included in the recruitment rules, the number was always subject to variation. Since the posts were of temporary nature, the promotions could not be on a regular basis. In the event of the posts not being continued it would be inevitable for the applicants to be reverted to the level of Senior Supervisor.

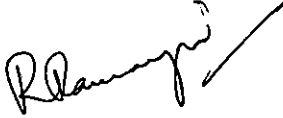
6. The learned counsel for the applicants was asked if there was any justification for the delay in filing the representation to the competent authority for the redressal of their grievance. He was not able to come out with any reason much less a valid or cogent explanation for such a delay. We find that the


impugned order dated 22/07/2010 is not a promotion order at all but merely a statement that the Assistant Directors mentioned therein would continue to work against the temporary posts for a further period of one year from 1.4.2010 to 31.3.2011. By no stretch of imagination could it be regarded as one giving rise to any fresh cause of action or grievance. We have, therefore, no hesitation in holding that the Original Application before us is hopelessly time barred.

7. In the interest of justice, however, we decided to examine the case on merits as well. We find that even on merits the applicants are unable to make out a valid grievance. It is not their case that during the period 2002-2010, they were ever reverted to the post of Senior Supervisor on account of non-continuation of the temporary posts or otherwise. During the hearing, the learned counsel for the respondents also informed that these posts have now been made regular since 2011 and therefore there is no apprehension of the applicants' reversion to the lower posts for non availability of post of Assistant Director (Data Centre). We also wanted to know from one of the applicants who was present during the hearing whether their temporary status during the 2002-2010 had resulted in any financial or other loss with reference to any benefit that would have been available if the officers were working as Asstt. Director on a regular basis. He was unable to indicate any such loss except to state that the applicants were already due for promotion to

next higher level, but were not being considered for such promotions. The counsel for the respondents, however, pointed out that there is no such next higher level of Deputy Director or any other post which has been included in Recruitment Rules at Annexure P/6. Therefore it makes no material difference to the applicants whether they enjoyed a temporary or regular status during 2002-2010.

8. In view of the aforesaid facts and observations, we are of view that the original application fails to raise any valid concern, is devoid of merits, infructuous and time barred. Accordingly, we have no hesitation in dismissing it with no order as to costs.


(R. Ramanujam)
Member (A)


(Justice Harun Ul Rashid)
Member (J)

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