

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI-5

O.A. No. 60 of 1994

Date of decision 26.8.98

Smt. Ng. Makan

PETITIONER(S)

Mr. B.K. Sharma

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Mr. G.Sarma, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE MR. JUSTICE D.N.BARUAH, VICE-CHAIRMAN.

THE HON'BLE SHRI G.L.SNAGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Benches?

Judgement delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 60 of 1994.

Date of decision : This the 26th day of August, 1998

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

Hon'ble Shri G.L. Sanglyine, Administrative Member.

Smt. Ng. Makan,
C/o Dinah Makan,
(Mar Blue Vanda School),
Nagaran,
P.O. Lamlong, Imphal.

....Applicant

By Advocate Mr. B.K. Sharma.

-versus-

1. Union of India,
Ministry of Home,
New Delhi.

2. The Director,
Census Operation,
Manipur, Imphal-795001 Respondents

By Advocate Mr. G. Sarma, Addl. C.G.S.C.

O R D E R

BARUAH J. (V.C.).

The applicant is a lady belonging to a community recognised as Scheduled Tribe. The applicant was appointed Assistant Compiler by Annexure-2 order dated 27.12.1990 on the recommendation of the Departmental Promotion Committee. Her appointment was initially upto end of February 1991 from the date of her joining. Thereafter she continued to work in the said post

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for a further time till 31.12.1993. On the expiry of the term by Annexure-3 order dated 31.12.1993 her services were terminated. It may be mentioned here that her appointment was made by the authority after holding meeting of Departmental Promotion Committee alongwith some other persons. Immediately after termination of service, the applicant approached this Tribunal by filing the Original Application No. 60 of 1994 and the application was admitted and thereafter an Interim Order was passed on 20.5.94 directing to appoint the applicant on temporary or adhoc basis in the post of Assistant Compiler, reserved for ST on terms and conditions as before. Pursuant to the said order, applicant was appointed on adhoc basis by office order dated 30.5.94. A Xerox copy of the said order has been placed before us by Mr. B.K.Sharma. Mr. G.Sarma, Addl. C.G.S.C. does not dispute the same. We quote the order dated 30.5.94 placed before us :

In compliance with the interim order passed by the Honourable CAT, Guwahati on 20.5.94 in respect of OA 24/24 and 60/94 the following retrenched employees (ST) of 1991 Census are hereby appointed on ad-hoc basis in the grade of Assistant Compiler in the scale of Rs. 950-1500/- against the resultant vacant posts of 1981 Census from the date of joining till the disposal of the final cases or until further order whichever is earlier.

- (1) Shri A.S. Stephen (ST)
- (2) Smt. Ng. Makan (ST)"

and since then the applicant has been discharging duties as Assistant Compiler in the scale of pay @ Rs.950-20-1150-EB-25-1500/.

2. In due course the respondents have entered appearance and filed written statement challenging the claim of the applicant. According to the respondents there is no such proposal for regularisation of the post of the applicant at all; it has to be done by the Staff Selection Commission and only when if the applicant comes out successful becomes eligible for appointment she can be appointed.

3. We have heard counsel for the parties. Mr. B.K.Sharma, learned counsel appearing on behalf of the applicant submits that applicant is a tribal lady deserves consideration for regularisation. Mr. Sharma further submits that one post of 1981 Census is lying vacant and this requires to be filled up and the same is reserved for Scheduled Tribe candidates only. The Interim Order passed by this Tribunal also indicates that she should be appointed as stop gap arrangement on temporary or adhoc basis in the post of Assistant Compiler reserved for Scheduled Tribe candidates. Mr. Sharma further submits that as the post is vacant and it is meant for Scheduled Tribe candidates and the

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the respondent's

applicant being a tribal lady deserves to be appointed.

In this connection Mr. Sharma also has drawn our attention to a decision of Apex Court in the case of Ram Kishan and Others vs. Union of India & Ors 1992 (Supl.)(1) SCC. That application was filed by the petitioners invoking the power of Article 32 of the Constitution. The short fact of the said case is that a set of engineers and junior engineers, working under the Ghaziabad Development Authority on basis of daily wages have filed an application under Article 32 of the Constitution. The engineers had been paying Rs.60/- per day. It was mentioned in the said case that some petitioners has been in employment on such terms for three to four years and all their attempts to have regularisation of their services have borne no fruit. It was informed to the Apex Court that such posts were to be regularised as per the Uttar Pradesh reqruitment rules on regular basis through Union Public Service Commission and accordingly the Apex Court observed thus :

At the time of regularisation the period spent on duty shall be adjusted against the age prescription and the Union Public Service Commission would take into account the past service to consider if any weightage should be given and performance under the authority may be taken into account for such purpose."

4. In the ypresent case also the applicant had been working till 31.12.1993 and thereafter also she has been working on adhoc basis as per the Office

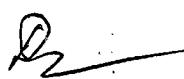
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Order dated 30.5.94 referred above: One post in the department is kept vacant for Scheduled Tribe candidate and the applicant beside being a lady belongs to a community recognised as Scheduled Tribe as she has been working for a long time. Therefore, we have no hesitation to give a direction to the respondents to take step for regularisation/appointment of a Scheduled Tribe candidate. The applicant claims her case should also be considered being tribal lady having work for last so many years and her past service be given weightage to. In another decision of the Apex Court in the case of Union oof India Vs. Dinesh Kumar Saxena & Ors. 1995 (3) SCC the Apex Court while considering question of selection by the Staff Selection Commission gave direction as under :

"..... 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 Deparment for the purpose of their selection to the regula posts."

This case is also from the same Census Department. Mr. B.K.Sharma has also drawn our attention to Annexure-I to the written statement issued by the Government of India, Ministry of Home Affairs, vide letter dated 14.12.1993. Mr. Sharma submits that these guidelines could be considered at the time of selection.

5. Heard Mr. G.Sarma, learned Addl. C.G.S.C. appearing on behalf of the respondents. Mr. G. Sarma



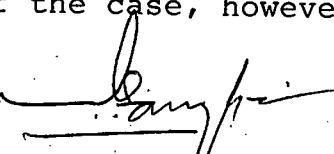
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vehemently opposes the submission oof Mr. B.K.Sharma.

According to Mr. Sarma, the applicant is holding temporary post on adhoc basis onlyand has no right to such post. Mr. B.K.Sharma submits that in the past, services of many similarly situated adhoc employees had been regularised by the respondents.

6. Considering the above, we direct the respondents to take steps for regularisation/appointment as per the prevailing rules and while doing so the case of the applicant should be considered as she belongs to Scheduled Tribe Community working for a long time and has gathered experience in the matter beside she being a lady. The respondents are directed to take steps for her regularisation/appointment as per rule as early as possible at any rate within the period of three months from the date of receipt of the copy of this order. Till then the applicant shall not be disturbed.

7. With the above observations, the application is disposed of. Considering the facts and circumstances of the case, however, we make no order as to costs.


(G.L.SANGLYINE)
Administrative Member


(D.N.BARUAH)
Vice-Chairman