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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.94 of 1994

Date of decision: This the 11th day of April 1997

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

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Tapeswar Deka,

Peon,

P.O. Anderighat, Distt. Darrang.

.....Applicant

By Advocate Mr B.K. Sharma, Mr B. Mehta and Mr S. Sarma.

-versus-

1. The Union of India, represented by the
Secretary, Ministry of Home Affairs,
New Delhi.

2. The Registrar General of India,
2A Mansing Road,
New Delhi.

3. The Director of Census Operation, Assam,
Ulubari, Guwahati.

.....Respondents

By Advocate Mr A.K. Choudhury, Addl. C.G.S.C.

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O R D E R

BARUAH.J. (V.C.)

In this application the applicant prays for a direction to the respondents, more specifically, respondent No.3- Director, Census Operation, Assam, to regularise the service of the applicant in Grade IV post and for any other relief.

2. Facts for the purpose of disposal of this application may be narrated as follows:

The applicant alongwith another was appointed casual worker under the respondent No.3 on a consolidated pay of Rs.750 per month with effect from 16.5.1991 and the period of appointment to continue upto 31.7.1991. He was posted in the Branch office of the Directorate at Chandmari under the Deputy Director of Census Operation. On the basis of this office order of appointment

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the applicant joined duty and has continued upto the period. Thereafter also, his appointment was extended from time to time and therefore he had been working as such. His case is that he was selected for regularisation of service in the said post by a select list prepared in 1994. In the select list he was placed at serial No.2. Persons junior to him had been regularised in their services, overlooking the case of the applicant. According to the applicant, as he was selected and placed at serial No.2 his services ought to have been regularised next to the person whose name appeared in serial No.1. For reasons best known to the authorities the services of the juniors had been regularised overlooking the claim of the applicant. This, according to the applicant, was not only arbitrary and discriminatory but also unreasonable. Hence the present application.

3. In due course the respondents entered appearance and filed written statement. In their written statement the respondents have not denied the fact that the applicant was selected and was placed at serial No.2 of the select list. According to the respondents the requisite qualification for appointment to Grade IV is Class VI. The applicant read only upto Class V and therefore he was not eligible for regularisation in the post. To counter the averments made by the applicant that the appointment of the four junior casual employees had been made ignoring his claim the respondents have stated that the seniority of casual workers are not required to be maintained by the department.

4. We have heard Mr B.K. Sharma, learned counsel for the applicant, and Mr A.K. Choudhury, learned Addl. C.G.S.C. Mr Sharma submits that there is no rule or any condition under the relevant scheme that the minimum qualification for regularisation of a casual employee should be Class VI passed. The

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learned counsel further submits that the applicant was placed at serial No.2 of the select list as per his seniority. Even assuming that the seniority list was not prepared in order of seniority there was no justification in appointing persons on a 'pick and choose' basis ignoring the claim of the applicant. Mr A.K. Choudhury has not been able to say anything to counter this submission of Mr Sharma. He has also not been able to produce any document in support of the stand taken by the respondents that the applicant ought to pass Class VI. Besides, in para 2 of the written statement it has been clearly stated that the applicant has read and passed Class VI examination. The respondents disputed the qualification only on the ground that the Annexure-A Certificate shows that he passed only Class V examination. There is a clear statement made in the written statement that the applicant had already passed Class VI examination. At this stage Mr B.K. Sharma produced a photocopy of the school certificate dated 31.4.1994 issued by the Headmaster of Pub-Gauhati Night M.E. School. The photocopy of the said certificate, however, shows some interpolation or overwriting, but it is very clearly written that the applicant passed the examination for promotion to Class VII. So, we have no doubt that the applicant had passed Class VI. Initials have been given in the places where interpolations or overwritings have been made. Therefore, we are of the opinion that there is nothing to show that for regularisation in the post a candidate must pass Class VI. Even if that is a requirement, as per the averments made by the respondents in paragraph 3 of the written statement, it is clearly stated that he passed Class VI examination and this is supported by the photocopy

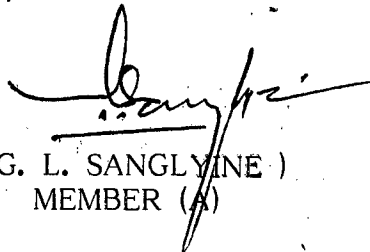
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of the Transfer Certificate dated 31.12.1994 issued by the Headmaster.

5. Considering all these we are of the view that the respondents unreasonably refused to regularise the service of the applicant. Accordingly, we direct the respondent No.3 to regularise the service of the applicant as per the Scheme and select list prepared. This must be done as early as possible, at any rate within a period of two months from the date of receipt of the order.

6. The application is accordingly allowed. However, in the facts and circumstances of the case we make no order as to costs.


(G. L. SANGLYINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN