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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::GUWAHATI-5.

130/94 and 131/94
O.A.No. of 199

8-5-1998.
DATE OF DECISION.....

Smt R.Mazumder & B.Mahanta (PETITIONER(S)

Shri J.L.Sarkar & M.Chanda ADVOCATE FOR THE PETITIONER(S)

VERSUS

Union of India & Ors. RESPONDENT(S)

Shri A.K.Choudhury,Addl.C.G.S.C Advocate for the Respondents.

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

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

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

Judgment delivered by Hon'ble Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 130 of 1994

&

No. 131 of 1994.

Date of Order : This the 8th Day of May, 1998.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Smt. Renu Mazumder (O.A.130/94)
Smt. Biju Mahanta (O.A.131/94) . . . Applicants

By Advocate S/Shri J.L.Sarkar & M.Chanda.

- Versus -

1. Union of India
represented by the Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Registrar General of India,
2/A Mansingh Road,
New Delhi-11.
3. The Director of Census Operations,
Assam, G.S.Road, Ulubari,
Guwahati-7.

By Advocate Shri A.K.Choudhury, Addl.C.G.S.C.
(In both the applications)

O R D E R

BARUAH J.(V.C)

Both the applications involve common questions of law and similar facts. The applicants were originally working as Draftsman in the office of the Director of Census Operations, Assam, Guwahati. Theyapplicant ingO.A.130/94 was appointed in the month of May, 1970 as Draftsman in the office of the Census Operation, Arunachal Pradesh, Shillong. She was thereafter transferred to the office of the Director of Census Operation, Assam. Similarly the other applicant Smt. Biju Mahanta, applicant in O.A.131/94 was appointed as Draftsman

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in July 1980 in the office of the Census Operation, Assam, Guwahati. Their next promotional post is Artist. Smt Mazumdar was promoted on the recommendation of the Departmental Promotion Committee (DPC for short) to the post of Artist with effect from 23.10.1991 on regular basis in the scale of pay of Rs.1400-2300/-p.m by order dated 23.10.1991. The other applicant Smt Biju Mahanta was promoted to the post of Artist with effect from 30.4.1990 on regular basis. In the order of promotion Smt. Mazumder, applicant in O.A.130/94 it was specifically mentioned that the applicant would be for a probation for two years. However, such condition was not there at the time of promotion to the other applicant Smt B.Mahanta. Smt Mahanta was also promoted on the basis of the recommendation of the DPC on regular basis. Thereafter both the applicants had been working as such till 30.11.1993. By order dated 30.12.1993 both the applicants were reverted to their original post of Draftsman consequent upon the discontinuation of the two posts of Artist created in connection with 1991 census vide Registrar General's letter No. 2/4/90-RG(Ad.II) dated 30.11.1993. Being aggrieved both the applicants had submitted representations. However, the said representations were not disposed of but they were reverted to the post of Draftsman. As the respondents failed to dispose of the representations both the applicants have approached this Tribunal by filing the aforesaid Original Applications.

2. In due course the respondents have entered appearance and filed written statements. We have heard Mr J.L.Sarkar, learned counsel appearing on behalf of the applicants and Mr A.K.Choudhury, learned Addl.C.G.S.C for the respondents. Mr Sarkar submits that the order of reversion was illegal, arbitrary and contrary to the provisions of law. Besides, the action of the respondents by submitting that the applicants

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being unreasonable. However, Mr Choudhury tries to justify the action of the respondents by submitting that the applicants were promoted to the post of Artist just to eke out the difficulties that was faced while the 1991 census was on. Mr Choudhury further submits that these two applicants were promoted only for the purpose of 1991 census, the moment the 1991 census operation came to an end they had been reverted to the original post. There is nothing wrong and no interference of the Tribunal is called for.

3. On the rival contentions of the parties it is to beseen whether the applicants were promoted to the post of Artist just for the purpose of completing the 1991 census. From Annexure-1 order dated 23.1.1991 in respect of Smt. R.Mazumder it appears that she was promoted on the basis of the DPC recommendation and appointment was made temporarily with effect from 23.10.1991 in the scale of pay of Rs.1400-2300/- on regular basis. Similar appointment letter was also issued to the other applicant Smt. B.Mahanta. In these two appointment letters nowhere it was shown that they had been promoted only for the purpose of 1991 census. We requested the learned Addl.C.G.S.C Mr Choudhury to produce the relevant records to show that these two applicants were actually promoted to the post of Artist only for the purpose of 1991 census. We also requested the learned Addl.C.G.S.C to produce the DPC proceeding to enable us to ascertain whether these promotions had been made for the purpose of 1991 census. But Mr Choudhury has not been able to produce any record. We wanted to see on what purpose DPC was held. Nothing has been shown and this Tribunal has been kept completely in darkness as to why DPC was held and for what purpose. In view of the above it is not possible for this Tribunal to ascertain and come to a conclusion that the present applicants were promoted only for the purpose of 1991 census. The expression of regular

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basis is contrary to the same. As the appointment letters do not indicate that the promotions had been made only for the purpose of 1991 census, it is difficult for us to hold and accept that the appointments were made only for the purpose of 1991 census. In view of the above we are constrained to hold that there is nothing to show that the applicants were prpmoted only for the purpose of 1991 census. Therefore, we are unable to accept the submission of the respondents. On the other hand we hold that these two applicants were promoted after holding two different DPCs on regular basis and there was therefore no justification to revert the present applicants to the original post. We have come to this conclusion, as the respondents failed to produce any document including the sanction letter, report of the DPC. The respondents have not made any endeavour to show that even in the DPC was constituted for the purpose of promoting the applicants against 1991 census work. In the absence of any such document we are inclined to hold that they were promoted on regular basis and therefore the applicants cannot be reverted. The sanction letters produced by the respondents do not indicate anything that those were for the present applicants. Accordingly we set aside the order of reversion dated 30.12.1993 and direct the respondents to give the applicants all consequential benefit

The applications are allowed. No order as to costs.

(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER

(D.N.BARUAH)
VICE CHAIRMAN

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