

10/100

10

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 261/95

R.A/C.P No.

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SECTION OFFICER (Judl.)

ORIGINAL APPLN.NO. 261 OF 1995

TRANSFER APPLN.NO. OF 1995

CONT.EMPT. APPLN.NO. OF 1995 (IN NO.)

REVIEW APPLN.NO. OF 1995 (IN NO.)

MISC.PETITION NO. OF 1995 (IN NO.)

..... Hanipada Roy APPLICANT(S)

..... -vs-
u-O-1 RESPONDENT(S)

For the Applicant(s)

... Mr. B.K. Das

Mr. S.R. Sen

Mr.

Mr.

For the Respondent(s)

Mr. S. Ali, Sr. C.A. for.

OFFICE NOTE

DATE

ORDER

29.11.95 Mr. B.K.Das for the applicant.

This application is in
form and within time.

C. F. of Rs. 50/-

deposited vide

IPO/BD No. 31.5455

Dated 24.11.95

B.P.
28/11/95
By Registrar (d)

P.D.

Heard. The applicant contends that by virtue of the decision dated 2.12.1994 in O.A. No. 80/92 the applicant's promotion is likely to be denied to him to the post which has fallen vacant on 31.10.1995. The learned counsel submits that the said judgement was given per incuriam and needs ~~xxxxxx~~ reconsideration of the matter. The beneficiary of the other judgement has been joined as respondent No. 5. Prima facie the question needs further consideration. The O.A. is admitted. Issue notice to the respondents to show cause. Six weeks for written statement.

Issue notice to the respondents to show cause as to why interim relief as prayed may not be granted. Show cause returnable on 15.12.1995. The respondent No. 3 is directed not to fill up the vacancy till 15.12.1995 if not already been filled up. Mr. S. Ali, Sr. C.G.S.C. now appears for

OFFICE NOTE	DATE	ORDER
	29.11.95	<p>respondents 1,2 and 3. However the notice for the show cause reply should be issued to respondent No. 3.</p> <p>If the applicant so desires and deposits the necessary costs the notices of respondent No. 3 in the O.A. as well as show cause for interim relief may be issued by speed post to respondent No. 3. The direction not to fill up the vacancy has been made without prejudice to the rights and contentions of the respondents. Liberty to respondents to apply for variation of this order if so advised earlier to 15.12.1995 but after giving prior notice to the learned advocate of the applicant on record Mr. S.R.Sen.</p> <p>Notices in the O.A. and as regards show cause reply to the interim relief be issued separately. Matter be placed for orders on 15.12.1995 for hearing of interim relief. The O.A. be placed for usual directions on 16.1.1996.</p> <p>A copy of this order may be furnished to Mr. S. Ali, Sr.C.G.S.C.</p>
<p>30.11.95</p> <p>Notice issued to the Rptt. No. 3 by Speed post.</p> <p><i>Am. 30/11</i></p> <p>Notice issued to R. no. 1, 2, 4 & 5 by Regd post vide no. 5782-85-2. 6.12.95</p> <p><i>5/12</i></p>		<p><i>60</i></p> <p>Member</p> <p><i>29.11.95</i></p> <p>Vice-Chairman</p>
		trd

OFFICE NOTE

DATE

ORDER

3

15.12.95

Mr S.A. Sen for the applicant.

Respondent No.5, A.B. Das, present in person.

Mr S. Ali, Sr. C.G.S.C., for respondent Nos.1 and 2.

The respondent No.5 feels aggrieved by the interim order dated 29.11.1995 on the ground that he is being deprived of the benefit of the order in O.A.No.80/92 when his promotion is ^{ripe} ~~right~~ because of promotion of Mr Brahmachari and, therefore, the order should be vacated. Although the grievance is of substantial nature the question will have to be examined from all its angles. Hence the O.A. is adjourned to 8.1.1996 for hearing on the interim relief and directions in the O.A. The interim order dated 29.11.1995 is extended till 9.1.1996 without prejudice to the rights and contentions of respondent No.5. It is made clear that until further orders the post in question may not be filled by any candidate.

hill
Vice-Chairman

5
Member

nkm

8-1-96

Mr.S.R.^Sen for the applicant.

Mr.S.Ali, Sr.C.G.S.C. for the respondents 1 & 2. Respondent No.5 Mr.A.B.Das present in person.

The respondent No.5 prays for vacating the interim order dated 29-11-95. He submits that Shri Brahmachari is due for promotion but has not been promoted owing to interim order and as soon as he is promoted, he himself will be eligible to be immediately promoted as Head Assistant in pursuance of the order in O.A.80/92 dated 2-12-94 and that ^{the} ~~has~~ ^{continuation of the} interim order is likely to ~~be~~ ^{be} deprived of that benefit and it should be vacated.

contd/-

Copies to all concerned
isnd v.m. 5572-17.
2.27.12.95

Notice sent on
R.M. 1.24.

by
1/11

OFFICE NOTE

DATE

ORDER

8-1-96

In our opinion unless the applicant eventually succeed in the application and is found to have been better claim over the respondent No.5 it would not be correct to state to fill up the vacancy of Head Assistant. The interest of the applicant can be protected by making the promotion of respondent No.5 if it takes place subject to the result of the O.A. This position has been made clear to respondent No.5 who is present and also to the learned counsel for the applicant. Hence following order:-

The interim order dated 29-11-95 directing the respondent No.3 not to fill up the vacancy of Head Assistant is hereby vacated and is substituted by direction that the respondent No.3 will be at liberty to promote the respondent No.5 to the post of Head Assistant when vacancy arises on promotion of Mr. Brahmachari but the promotion so given to the respondent No.5 during the pendency of the O.A. will be subject to the result of the O.A.

Only the respondent No.5 states that he will file written statement within 1 week. Mr. S. Ali, Sr.C.G.S.C. wants time for respondents No.1,2 and 3 to file written statement. Written statement of respondent No.4 is awaited.

O.A. is directed to be listed for hearing on 26-2-96. In the meanwhile liberty to file written statement and rejoinder if any.

Copy of the order to supply to the respondent No.5.

Member

Vice-Chairman

lm

Copy of an order dt. 8/1/96
is sent to all concerned
v.m-97-102 dt. 9.1.96

26-2-96
for hearing
29.4.96

By order
B. S. S.

OFFICE NOTE

DATE

ORDER

28.2.96

Rejoinder to the application in reply to the W/S submitted on behalf of the Dept. No. 5.

25.4.96

Official respondents have been submitted written statement. Learned Sr.C.G.S.C Mr S.Ali seeks time for submission of written statement.

List on 5.6.96 for written statement and further orders.

Member

D Service Ready on Resps

no 1 & 4

2) W/S statement - has not been filed.

4/6

pg

5-6-96

Official respondents have not submitted written statement. Private respondent No.5 have submitted written statement. Private respondent No.4 has not submitted written statement.

List for written statement and further order on 4-7-96.

Member(A)

Member(J)

lm

19.6.96

None present for the applicant. Mr S. Ali, learned Sr. C.G.S.C., for the respondents is present.

List for hearing on 12.7.96.

Member

nkm

12.7.96

Leave note of Mr. S.Ali, Sr. C.G.S.C.

List for hearing on 9.8.96.

Member

trd

1) Notice served on Resps no 1 and 4.

2) W/S statement - ab Pvt. Resps no. 5 has not been submitted. (The copy of W/S. is not in the record).

3) The W/S statement - ab Resps no. 4 is also not been filed.

8/8.

OFFICE NOTE

DATE

ORDER

9.8.96

Mr-S. Ali, learned Sr. C.G.S.C. for the respondents.

List on 9.9.96 for hearing.

ba
Member

nkm

9.9.96

Mr. S.Ali, Sr. C.G.S.C. for the respondents. Leave note of Mr. B.K. Sharma.

Written statement has not been submitted.

List for hearing on 9.10.1996. In the meantime the respondents may submit written statement.

ba
Member

pg

mv
10/9

9-10-96

None present. Official respondents have not submitted written statement.

List for hearing on 26-11-96. In the meantime respondents may submit written statement.

ba
Member

lm

mv
9/11

26.11.96

None for the applicant.

Mr. S.Ali, Sr.C.G.S.C. for the respondents.

Written statement has not been submitted.

List for hearing on 18.12.1996. In the meantime the respondents may submit written statement.

ba
Member

trd

mv
26/11

*W/satish - has not been
b'nd -
22/10*

*W/satish - has not
been b'nd -
22/11*

*① Rejoinder has been
filed on behalf of
The Respondant No-5.
at page-58 to 66.
22/11
17-12*

*② Written statement
has not been submitted,
22/11
17-12*

(7)

O.A. No. 261 of 1995

18.12.96

Mr. S. Ali, Sr. C.G.S.C. for the respondents.

Written statement has not been submitted.

List for hearing on 7.1.1997. In the meantime the respondents may submit written statement.

[Signature]
Member

trd

M 16/12

7-1-97

Mr. S. Ali Sr. C.G.S.C. for the respondents.

Written statement has not been submitted.

List for hearing on 4-2-1997. In the meantime the respondents may submit written statement.

[Signature]
Member

1st statement - has not been filed.

*2) Service Reports are ready on Respdts no. 1 & 4.
3) Reply to the letter from R.W. on behalf of Respdts no. 5.*

lm

M 21

~~4-2-97~~

Mr S.R. Sen, learned counsel for the applicant is present. Mr S. Ali, learned Sr. C.G.S.C., appearing on behalf of respondent Nos.1 to 3 prays for time to file written statement

List it on 21.2.97.

Issue notice to respondent No.5 who appears in person. It is informed that the written statement of respondent No.5 was filed. However it is not in record. Office to report.

Meanwhile office to send notice to the applicant intimating that the case will be taken up on the next date fixed and if the

3/2

O.A.No.261/95

4.2.97

Mr S.R. Sen, learned counsel for the applicant and Mr S. Ali, learned Sr. C.G.S.C., on behalf of respondent Nos.1 to 3, are present.

List it for hearing on 21.2.97.

Issue notice to respondent No.5 who appears in person. It is informed that the written statement of respondent No.5 was filed. However it is not in the record. Office to report.

bp
Member

SB
Vice-Chairman

11-2-97

nk m

W
10/2

An affidavit read in court ~~by~~ from the applicant - 21.2.97

10-2-97

Copy of The order
Dt - 4-2-97 Issued
to The Respondant
No - 5 vide - P.No -
Dt -

BU
10-2

20-2-97

In terms of order dt. 4-2-97, it is carefully ^{checked up} ~~checked up~~ in records with inward register, but nowhere it is in the W/S of Respond No. 5 ^{pg} been traced. Also enquired in C.G.S.C. He has a confusion in the matter. *W* 21/2

29-6-98

Case is ready for hearing.
List for hearing on 7-8-98.

bp
Member

SB
Vice-Chairman

25-2-97

W/S filed on 6/2/97
R. no. 1, 2 & 3.

lm

ms
30/6

9

O.A.No.261/95

a

25.8.98

7.8.98

The learned counsel for the applicant is not present. The applicant is also not found on call. The application is dismissed for default. Mr S. Ali, learned Sr. C.G.S.C. is present.

This case is fixed at Agantale. Since there is no proposal for circuit sitting at Agantale and is an old pending matter, it has been placed before the Hon'ble court in fixing a date of hearing.


Member


Vice-Chairman

nkm


W/S has been filed. ^{for} 10/8

^{24/8}
W/S has been filed.

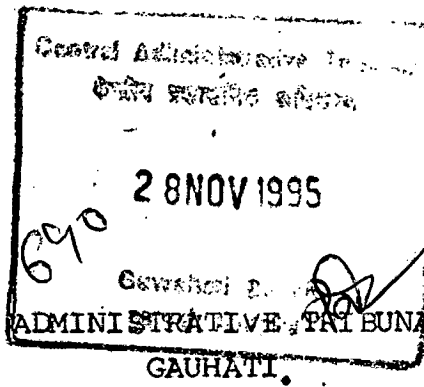
^{24/8}
W/S

21.8.98

Copies of the order have been sent to the S/Sec. for security the same to the L/Advocates of the parties.

 Issued vide

D.No. 2297 to 2298.
Dy 24.8.98.



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GAUHATI BENCH,
GAUHATI.

CASE NO. O.A. 261 OF 1995.

Shri Haripada Roy

Petitioner.

-vs-

Union of India & ors.

Respondents.

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18. Affidavit of applicant - 67-70

Received copy.

Lab. Sr. CGSC
28/11/95

H. Roy

Filed by 2
the applicant
through
S. R. Sen
Advocate
27.11.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GAUHATI BENCH :

CASE NO. O.A. 261 OF 1995.

H. Roy

Shri Haripada Roy,
(Assistant, under Directorate of
Census ^{Operation} ~~Commission~~, Agartala, Tripura),
S/O late Mono Mohan Roy,
Resident of Madhya Badharghat,
P.O.-A.D.Nagar, Agartala, West Tripura.

..... Applicant.

-vs-

1. Union of India, New Delhi, represented
by the Secretary to the Govt. of India,
Ministry of Home Affairs, New Delhi.
2. The Registrar General & Census Commi-
ssioner, Govt. of India, Kotach House, Annexe
2/A, Man Singh Road, New Delhi-110011.
3. The Director of Census Operation,
Tripura, 14/1, Krishnanagar, PO-Agartala,
West Tripura District.
4. Shri Pracheta Ranjan Brahmachary,
Head Asstt. Directorate of Census
Operation, Tripura, 14/1, Krishnagar,
P.O. Agartala.

contd2(P)

2.

5. Shri Ajit Baran Das, S/o Shri Ananda
Charan Das of Shrivnagar College Road
Extension, PO Agartala College,
Agartala, Tripura.

..... Respondents.

DETAILS OF THE APPLICATION.

1. Particulars of the applicant.

- i) Name of the applicant : Shri Haripada Roy.
- ii) Name of father : Late Monomohan Roy.
- iii) Age of the applicant : (Date of birth)
15-2-1940
- iv) Designation and X
Particulars of office X
Assistant,
Directorate of Census
Operations, Govt. of
India.
- v) Office Address : Directorate of Census
operation, Tripura West,
14/1 Krishnanagar, PO
Agartala, West Tripura.
- vi) Address for Service
of Notice. : Shri Haripada Roy,
S/O late Monomohan Roy,
resident of Madhya Badharghat,
P.O.A.D. Nagar, Agartala,
West Tripura District,
PIN- 799003.

contd3(P)

3.

2. Particulars of the Respondents.

- i) Name of the respondent :
1. Union of India
 2. The Registrar General & Census Commissioner.
 3. The Director of Census Operation, Agartala, Tripura, 14/1 Krishnanagar.
 4. Shri Pracheta Ranjan Brahmachary, Head Asstt. Directorate of Census Operation, Tripura, 14/1, Krishnanagar, PO Agartala.
 5. Shri Ajit Baran Das, S/o Shri ^Ananda Charan Das of Shrivnagar College Road Extension, PO Agartala College Agartala, Tripura.

ii) Office Address

1. Ministry of Home Affairs, New Delhi.
2. Kotah House Annexe, 2/A Man Singh Road, New Delhi-110011.
3. Tripura West, 14/1, Krishnanagar, PO Agartala, West Tripura District, PIN-799001.

contd4(P)

4.

iii) Address for Service

of Notice.

:

-Do-

3. Particulars of order for which application is made :-

i) There is a single and isolated post of Head Assistant in the office of Directorate of Census operation, Agartala, created by the Registrar General of India. One unreserved candidate Shri P.R. Brahmachari was promoted to the said post of Head Assistant on 28-2-1992 and he has been promoted to the post of Office Superintendent after superannuation of Shri H.R Bhowmik, Office Superintendent on 31st October, 1995. Thereafter, the post has fall vacant. But the respondents are making arrangement to fill up the said post now lying vacant by appointing reserved candidate that is respondent No.5 in terms of the judgment and order dated 2-12-94 passed by this Hon'ble Tribunal in OA 80/92 filed by the said respondent no.5 as applicant. Though the principle of reservation will not apply in a single and isolated post. The applicant is a senior most General candidate in the Department and he is to be considered for promotion to the said post after promotion of Shri PR Brahmachari to the post of Office Superintendent. Hence, the applicant filed the instant application for a direction to consider him for promotion to the post of Head Assistant.

contd ...

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H-207

ii) The judgment and order dated 2-12-94 passed in OA 80/92 by this Hon'ble tribunal is a decision per incurium in view of Hon'ble Supreme Court's judgment in Case No. Dr Chakradhar Paswan -vs- State of Bihar and Or (AIR 1988 SC 951) and in Smti Chitara Dilip Hotghare -vs- Bhide Girls' Education Society (AIR 1994 SC 1917).

4. Jurisdiction of Tribunal :

The applicant declares that the subject matter of the case for which ^{he} wanted redressal is within the jurisdiction of the Tribunal.

5. Limitation :

The applicant, further declares that the application is within the period of Limitation prescribed in Section 21 of the Administrative Tribunal Act, 1985.

6. FACTS OF THE CASE :

(a) The applicant was appointed as Clerk vide order No.F.5(11-C)-Co /59 dated 15-1-1962 issued by the Superintendent, Census operation, Tripura and joined in the office of the Superintendent, Agartala on 15-1-1962 A.D. Thereafter, the applicant has been promoted to the post of computer on 30-7-1970 vide order No.F.5(45)-Co/69 dated 27-7-1970 issued by Director of Census Operations, Tripura. Thereafter,

contd

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H. Roy

the applicant has been redesignated in the post of UD Clerk-cum-Cashier as because the pay scale of Computer and UD Clerk-cum-Cashier are same and identical with equal pay scale and joined in the said redesignated post on 22-1-1975. Again by an order No.F.5(91)-Co/70 dated 8-1-1975 the applicant was promoted on the adhoc basis to the post of Accountant and joined in the said post on 1-4-1980. The applicant was regularised in the said post of Accountant on 24-7-1981 by vide order No.A-11015/2179-Estt- dated 30-4-1982 issued by Director of Census Operations.

The copies of the order dated 15-1-1962, order dated 27-7-1970, order dated 8-1-1975 and order dated 30-4-1982 are annexed herewith and marked as Annexures-1, 2, 3 and 4 respectively.

(b) The applicant was promoted to the post of Head Clerk on adhoc basis with effect from 1-3-1981 and regularised in the said post with effect from 12-10-1983 vide order no.A-12025/3/81-Estt dated 13th October, 1983 issued by Director of Census Operation, Tripura. Thereafter, again appointed to the post of Asstt. on adhoc basis vide order No. A. 11011/1/84-Estt dated 29-2-1984 with effect from 1-3-1984 issued by Director of Census Operations,

contd :....

H-207

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H. Roy

Tripura. The post of Head Clerk and Assistant are same and identical and carrying the same pay scale and same responsibility. But the petitioner was regularised in the said post of Assistant with effect from 22-3-1990 by order No. A-12020/2/81-Estt dated 2-5-1990 issued by Director of Census Operations, Tripura instead of with effect from 1-3-1984, the date on which adhoc appointment was made. As such the petitioner should be regularised to the post of Assistant with effect from 29-2-1984.

The copy of the order dated 13th October, 1983 order dated 29-2-1984 and order dated 2-5-90 are annexed herewith and marked as Annexures-5, 6 and 7 respectively.

(c) That the applicant submitted representation dated 20-7-1984, 5-12-1984, 8-1-1986 and 14-1-1986 to the respondent for passing a speaking order appointing the applicant to the post of Assistant with effect from 1-3-1984 instead of 22-3-1990. The respondents vide Memo No. A-23020/1/8 -Estt (Part) dated 30-1-1986 withheld the representation dated 14-1-1986.

The copy of the representation dated 20-7-1984, 5-12-1984, 8-1-1986 and 14-1-1986 and reply of respondent dated 30-1-1986 are annexed herewith and

contd

and marked as Annexure-8, 9, 10, 11 and 12 respectively.

(d) That there is a single and isolated post of Head Assistant in the office of Director of Census Operations, Tripura, created by the Registrar General of India, vide Notification No. 4/41/82-Ad-1 dated 25th August, 1984. The appendix-1 attached to this notification dated 25-8-1984 will show the number of posts of Head Assistant created in different States. In Sl No. 22 of the said Appendix -1, it is clearly stated that there is only one post of Head Assistant created for Tripura. The post has been filled up always by unreserved/general candidates. Of course, one P.C. Das was appointed to Head Assistant on merit, not as a SC candidate. The schedule attached to the said notification dt. 25-8-1984, contains that the eligibility for the post of Head Assistant required is :-

- i) Degree of a recognised University or equivalent.
- ii) 5 years experience in administration, establishment and cash accounts matter in a Govt. office or a Commercial firm of reputed.

The post of "Assistant" is the feeder post for promotion to the post of Head Assistant. Shri PR Brahmachari the incumbent in the post of Head Asstt. has since been promoted to the post of Office Superintendent, after superannuation of Mr HR Bhowmik,

contd ...

from 31st October, 1995. The applicant is the seniormost Assistant eligible for promotion to the post of "Head Assistant". The seniority list of Assistant of Directorate of Census Operation, Tripura published as on 1-6-1994 will show that the applicant's name is placed in Serial No.1, that he is the seniormost Assistant. Thus, the applicant is entitled to be considered to be promoted in the single and isolated post of "Head Assistant" as he is the only eligible and seniormost Assistant in the office in Tripura.

The copy of the notification dated 25-8-1984 together with schedule and appendix-1 is annexed herewith and marked as Annexure-13 and the seniority list of "Assistant" is also annexed herewith as Annexure-14.

2. That in the facts and circumstances the applicant being the senior most Assistant is entitled for promotion to the post of "Head Assistant" now lying vacant. Accordingly, he approached the respondent No. ¹⁻³4 and submitted a demand notice dt. 20-9-1995 but however the opposite parties have not responded to the same. The applicant in course of his approaches to the respondent nos. 1-3 regarding his promotion ultimately come to learn that move has been initiated to promote present opposite party No. 5 to the post of Head Assistant. Applicant states

contd

10.

that the opp. party No.5 is junior to him in the cadre of Asstt. and therefore he is not entitled for promotion in supersession of the applicant to the post of Head Assistant which is an isolated and single post.

§. That the applicant while making further enquiry about the unjust move of the opposite party No.1-3 to promote opposite party No.5 came to learn that such action on part of the opp. party Nos.1-3 is in term of directions contained in the judgment and order dt.2-12-94 passed by this Hon'ble Tribunal in O.A.No.80 of 1992 filed by the opposite party No.5. The applicant having learnt this, immediately thereafter with reference to the said O.A. number obtained a copy of the application so filed and the judgment dated 2-12-94 passed therein. From the perusal of the said judgment and application it appeared that the opp. party No.5 filed the application before the Hon'ble Tribunal challenging the order dt.28-2-1992 promoting one respondent No.4 to the post of Head Assistant. The contention of respondent No.5 before this Hon'ble Tribunal was that for the purpose of promotion to the post of Head Assistant 40 point reservation roster had not been followed and as a result he being an S.C. candidate was illegally deprived of promotion to the reserved post of "Head Assistant". In the application registered

contd

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H-207

22
11.

as OA 80/92 the present respondent, Nos. 1-4 were impleaded as respondents. In the said application it was contended that the respondents therein erroneously held that post of "Head Assistant" was unreserved as the 1st point of the 40 point roster belonging to the SC candidate had already been consumed by one Shri PC Das, an SC candidate. The respondent no. 5 stated in his application that appointment of Shri PC Das was purely on merit. The Hon'ble Tribunal by its judgment and order dt. 2-12-94 partly allowed the application filed by the respondent no. 5, holding that the promotional roster of reservation was not followed. But in the facts and circumstances without disturbing the promotion of respondent no. 4 directed the respondents that reservation point for schedule caste be carried forward to the ensuing effective recruitment year and consider the promotion of the respondent no. 5 to the post of "Head Asstt.", who would by that time complete 5 years of service as Assistant which is one of the eligibility criteria set out by the rule for the purpose. It was also made clear by the Hon'ble Tribunal in its judgment that on promotion of respondent nos. 4 to the next higher post in October, 1995, the case of the respondent no. 5 shall be considered for filling up the vacant post of Head Assistant. Applicant state that in the said application, he was not made a party though the subject matter involved therein and

contd ...

and the decision of the Hon'ble Tribunal on the same has affected him. It is stated that the applicant being admittedly senior to the respondent No.5 and is also otherwise eligible for promotion to the post of Head Assistant. The applicant state that he did not have the knowledge of judgment and order dt.2-12-94 as he was not about a party therein and could come to know/the same only when approached the respondents Nos.1-3 for his promotion to the post of Head Assistant which fall vacant in the month of October, 1995.

Applicant craves lave of this Hon'ble Tribunal to refer to and rely on the record of OA 80/92 in support of the above contentions.

A copy of the judgment and order dt.2-12-94 is annexed herewith as Annexure- 14A

g) That the applicant is at the verge of retirement and the promotion to the post of Head Assistant will be the last avenue of promotion of the applicant in his service period. The post of Head Asstt. which is lying vacant since 31st October, 1995 after superannuation of HR Bhomik and promotion of Shri PR Brahmachari to the post of Office Superintendent, is a single and isolated post and the applicant is the only seniormost eligible candidate for the said post and the principle of reservation will not apply in this case. The applicant submitted Demand Notice dt.20-9-1995 upon the respondents but

contd

but no reply is received till today from the respondents.

A copy of Demand Notice dt.20-9-1995 is annexed herewith and marked as Annexure-15.

a) That the applicant states that the post of 'Head Assistant' at present is lying vacant. The applicant being the seniormost in the cadre of Assistant has the right to be considered for promotion to the said post. However, to the knowledge of the applicant the respondent no.1 to 3 are taking all steps for filling the post of Head Assistant by promoting the respondent no.5. The applicant states that though the post of Head Assistant is not yet filled up, but the move of the respondent Nos.1 to 3 to promote respondent no.5 may be materialised at any point of time. Promotion of the respondent no.5 at this stage would result in supersession of the applicant in most arbitrary and unjustified manner and would seriously prejudice his interest. Therefore, intervention of this Hon'ble Tribunal at this stage necessary in the way of restraining the respondent Nos.1-3 from promoting the respondent no.5 to the post of Head Assistant pending adjudication of the issues involved herein. No relief is claimed against the respondent no.4, but he is made a party for proper adjudication of the issues involved.

contd ...

24
H-207

7. GROUND FOR RELIEF WITH LEGAL PROVISIONS.

i) That the applicant states that the judgment and order dt. 2-12-94 passed in OA 80 of 1992 by the Hon'ble Tribunal is a judgment per incuriam in view of the Hon'ble Supreme Court's decision on issue in the case of Dr Chakradhar Paswan -vs- The State of Bihar & Ors (AIR 1988 SC 951) and in the case of Chetana Dilip Hotgore -vs- Bhidi Girls' Education Society (AIR 1994 SC 1917), hence the same need to be reconsidered and the matter in issue need to be decided afresh.

ii) That the applicant states that the decision of the Hon'ble Supreme Court on issue was not brought to the knowledge of this Hon'ble Tribunal which is otherwise binding on it under Article 141 of the Constitution and therefore the judgment and order dt. 2-12-94 without referring to the decision of the Apex court need to be reconsidered and the issue be adjudicated afresh.

iii) That the applicant begs to submit that the post of 'Head Assistant' being a single and isolated post cannot be reserved and this position is made clear by the Hon'ble Supreme Court in the case of Dr Chakradhar Paswani's -vs- State of Bihar and ors. (AIR 1988 SC 951) wherein it has been held that the principle of reservation will not apply in a single isolated post as it would render the guarantee of

equal opportunity as contained in Articles 16(1) and 16(2) whereby meaningless and illusory resulting in 100% reservation and this view has been upheld by the Apex court in its subsequent decision in Case of Smti Dilip Motghare -vs- Bhide Girls' Education Society (AIR 1994 SC 1917).

iv) That the applicant state that reservation roster is applicable with regard to the post and not ^{to the} vacancy and therefore the post of 'Head Asstt' being a single isolated post the reservation roster would not apply on the same.

v) That the applicant submit that the post of 'Head Assistant' being a isolated post same cannot be reserved as it would amount to 100% reservation which would be clearly violative of right to equal opportunity.

2) DETAILS OF REMEDIES EXHAUSTED.

The applicant declares he has served Demand notice to the respondents through his learned Advocate.

22. Matter not previously filed or pending with any other court -

The applicant further declares that he had not previously filed any application, writ petition

contd :..

or any suit regarding subject matter of this application.

1D. Particular of Postal Order in respect of application fee :-

Number of Indian Postal Order : For Rs.50/-

bearing Postal Order No. B/09/315455

Issuing Post Officials Name - Agantala, Post office

Dated :- 11.11.95

II RELIEF SOUGHT :

The applicant, therefore, prays that your Lordship would be pleased enough to allow the following reliefs :-

i) The judgment and order dt.2-12-94 passed in OA 80/92 by the Hon'ble Tribunal being judgment per incurium needs to be reconsidered and matter in issue need to be decided afresh.

ii) The respondent Nos.1-3 be directed to consider the applicant for promotion to the post of Head Assistant under Director of Census Operations, Tripura which lying vacant due to superannuation of Shri HR Bhowmik and promotion of Shri PR Brahmachari to the post of Office Superintendent from the said post on 31st October, 1995.

iii) to declare that in the single and isolated post of 'Head Assistant' fell vacant due to promotion

contd ...

17.

of Bhri P R B ahmachari, the Principle of reservation will not apply.

(iv) the decision in judgment and order dtd. 2-12-94 passed in OA 80-92 is per incuriam and hence respondent No.5 is not entitled for promotion in terms of the same.

(v) to direct the respondent Nos. 1- 3 to regularise the applicant to the post of Asstt. with effect from 1-3-1984, the date on which the applicant was appointed on adhoc basis instead of 22-3-1990 and to count the seniority of that period of Assistant.

(vi) direct the respondents to pay the cost of proceedings.

Prayer for interim order.

Pending disposal of this application be pleased to stay the operation of the judgment and order dt. 2-12-94 passed in OA 80/1992 and further.

Pass an interim order directing the respondent Nos.1-3 not to fill up the post of Head Assistant in any manner by reserved candidate including the respondent No.5.

Verification....

H. Roy

18.

VERIFICATION.

I, Shri Haripada Roy, son of late Mono Mohan Roy, aged 55 years, serving as Assistant under Directorate of Census Operation, Tripura, resident of Arundhutinagar, Agartala, West Tripura, do hereby verify that the statements made in para 1-6 are true to my knowledge and I sign this verification today the 27th day of November, 1995 in the Chamber of Advocate.

Haripada Roy
Signature of the applicant.

51

-19-

Annexure - A,

30

No.F.5(11-C)-CO/59.
Government of India
Office of the Superintendent,
Census Operations,
Tripura.

Agartala,

Dated, the 15th January, 1962.

O R D E R.

Shri Haripada Roy, is appointed temporarily as a clerk in the office of the undersigned in the scale of Rs. 110-3-131-4-155-EB-4-175-5-180/- plus other allowances as admissible, vice Shri Mihir Kumar Sen Gupta.

2. His services are liable to be terminated on one month's notice from either side or with one month's pay in lieu of notice.

3. The appointment will be further subject to other conditions of services governed by the relevant rules and orders in force from time to time.

4. He should report for duty to the undersigned with immediate effect.

Sd/-

(C. R. Paul)
Superintendent,
Census Operations, Tripura.

✓ Copy forwarded to Shri Haripada Roy, C/O. Surjya Kumar Saha,
21/4, Central Road, P.O. Agartala, Tripura.

Shri Haripada Roy
for

for

Superintendent,
Census Operations, Tripura.

20 - *Annex - A2*

No.F.5(45)-CO/69
Government of India
MINISTRY OF HOME AFFAIRS
Directorate of Census Operations,
Tripura.

Agartala, the 25th July, 1970.
27th

ORDER

Shri Haripada Roy, Typist is appointed on promotion to officiate as Computer under Sample Registration Scheme in the scale of Rs.150-5-160-8-240-EB-8-280-10-300/- plus usual allowances as admissible to central Government employees temporarily and until further orders with effect from the date he joins as Computer.

2. His services are liable to be terminated on one month's notice from either side or with one month's pay in lieu thereof.

3. The appointment will be further subject to other conditions of service governed by the relevant rules and orders in force from time to time.

(C. R. PAUL)
DIRECTOR OF CENSUS OPERATIONS,
TRIPURA.

Copy to :-

- ✓ 1. Shri Haripada Roy, Typist. He should join ~~in~~ his duties ^{immediately} on ~~27th July, 1970~~ positively in S.R.S. Unit.
2. Personal File.

[Signature]
DIRECTOR OF CENSUS OPERATIONS,
TRIPURA.

Shri Haripada Roy

-21-
No. F. 5(91) - 1670 *Ammanur - A3*
Government of India
Ministry of Home Affairs
Directorate of Census Operations
Tripura

32

Agartala, the 8th January, 1975

O R D E R

Shri Himangshu Ranjan Bhowmick, U.D. Clerk-cum-Cashier of this Directorate, who was appointed to officiate temporarily in the post of Accountant on ad-hoc basis with effect from 12.11.74 is hereby appointed on promotion to officiate in the post of Accountant temporarily and until further orders on the recommendation of the Class III D.P.C. dated 30.12.1974 as on regular basis with effect from the date of his ad-hoc appointment to the post of Accountant, i.e. with retrospective effect from 12.11.1974. Shri Bhowmick will hand over charge of the post of U.D. Clerk-cum-Cashier to Shri H.P. Roy.

2. Shri H.P. Roy, Computer of this Directorate, who was appointed to officiate as Computer from the post of Typist Clerk (L.D. Clerk) is hereby transferred temporarily to officiate in the post of U.D. Clerk-cum-Cashier in the identical scale of Rs. 330-10-380-EB-12-500-EB-15-560/- with immediate effect until further orders. His pay will be fixed according to the normal rules. Shri Roy should take charge of the post of U.D. Clerk-cum-Cashier from Shri Bhowmick, promoted to the post of Accountant.

A. Bhattacharyya
(A. Bhattacharyya)
Director of Census Operations,
Tripura.

Copy to:-

1. Shri H.R. Bhowmick, Accountant,
- ✓ 2. Shri H.P. Roy, Computer.
3. Accounts Section
4. Personal Files.

Minister
51

- 22 - *Chakraborty. A4*

37

No. A.11015/2/79-~~Estt.~~
~~No. A.11015/2/79-~~Estt.~~~~
Government of India
Ministry of Home Affairs
Directorate of Census Operations
Tripura.

Dated, Agartala, the

30-4-82

O r d e r

In partial modification of this Directorate order of even number dated the 20th April, 1982 the under mentioned incumbents are appointed on regular basis to the posts as shown against their names with effect from 24-7-1981 instead of 5-4-1982:-

Sl. No.	Name	Post to which promoted.	Scale of pay of the post.
1	2	3	4
1.	Shri Pracheta Ranjan Bramhachary	Assistant	Rs. 425-15-500-EB-15-560-20-700/-
2.	Shri Haripada Roy	Accountant	Rs. 425-15-500-EB-15-560-20-640/-

(S.R. Chakraborty)
Director of Census Operations
Tripura.

Copy to :

1. Shri P.R. Bramhachary & Shri H.P. Roy, Directorate of Census Operations, Tripura.
2. The Pay & Accounts Officer (Census), A.G.C.R. Building New Delhi.
3. Accounts section/personal file.

[Signature]
Director of Census Operations
Tripura.

Shri
51

- 29 - ANN - A 5 34

No.A.12025/3/81-Estt.
Government of India
Ministry of Home Affairs
Directorate of Census Operations
Tripura.

13 OCT 1983

Dated, Agartala, the

O r d e r

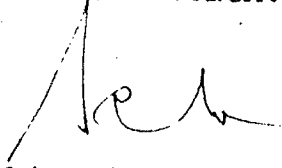
On the recommendation of the Departmental Promotion Committee, Shri Haripada Roy, who is officiating as Head Clerk on ad-hoc basis is hereby appointed on promotion to the grade of Head Clerk on regular basis with effect from 12-10-1983 in the scale of Rs.425-15-500-EB-15-580-20-700/- in the Directorate of Census Operations, Tripura. in a temporary capacity until further orders.

2. His pay will be fixed according to normal rules.

(S.R. CHAKRABORTY)
Director of Census Operations
Tripura.

Copy to :

1. Shri Haripada Roy, Directorate of Census Operations, Tripura.
2. The Pay & Accounts Officer (Census), Ministry of Home Affairs, A.G.C.R. Building, New Delhi.
3. Personal file/Accounts Section.


Director of Census Operations
Tripura.

Disputed
for

- 22 -

Annure - 1/1

35

No.A.11011/1/84-Estt
Government of India
Ministry of Home Affairs
Directorate of Census Operations
Tripura

858

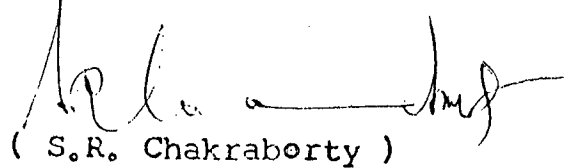
Dated, Agartala, the 29.2.84

O R D E R

Consequent upon the abolition of the post of Head Clerk as communicated vide Registrar General, India's message No.1/1/84-Ad.I dated 28.2.84 Shri H.P. Roy is hereby appointed against the vacant post of Assistant in the scale of Rs.425-15-500-EB-15-560-20-700/- by adjustment on temporary and ad-hoc basis as per instruction contained in the aforesaid message with effect from the forenoon of 1st March, 1984.

him
The ad-hoc promotion will not bestow on ~~them~~ any claim to regular appointment to the respective grade of promotion. The services to be rendered by them on ad-hoc basis will not count for the purpose of seniority in the respective grade of promotion nor for eligibility for promotion to the next higher grade. This ad-hoc promotion may be reversed at any time at the discretion of the undersigned without assigning any reason thereof.

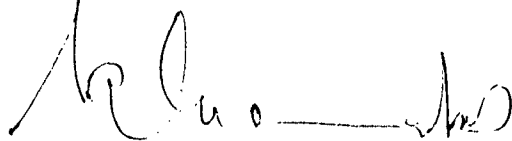
The above ad-hoc promotion will in no way affect the existing seniority in the different grades for consideration at the time of making regular appointment.



(S.R. Chakraborty)
Director of Census Operations
Tripura

Copy to :-

1. ✓ Shri H.P. Roy, Head Clerk, Directorate of Census Operations, Tripura
2. The Pay & Accounts Officer(Census), A.G.C.R. Building, New Delhi.
3. The Registrar General, India, New Delhi,
4. Accounts Section/ Personal file
5. Respective appointment file.



Director of Census Operations
Tripura.

Submitted
for

245

Answer - 173

No.A.12020/2/81-Estt.
Government of India
Ministry of Home Affairs
Directorate of Census Operations
Tripura.

Dated, Agartala the 2 1990

O R D E R

On the recommendation of Departmental Promotion Committee, the following employees in the office of Directorate of Census Operations, Agartala, Tripura are hereby appointed on promotion in the temporary capacity to the post on regular basis shown against their names with effect from 22.3.1990.

Sl. No.	Name & designation	Post to which appointed on regular basis	Scale of pay
1	2	3	4
1.	Shri K.R.Chakarborty, Sr.Artist.	Sr.Artist.	Rs.1600-2660/-
2.	Shri P.K.Ghosh, Artist	Artist	Rs.1400-2300/-
3.	Shri H.P.Roy, Assistant	Assistant	Rs.1400-2300/-
4.	Shri S.Rao Bhattacharjee, U.D.Clerk	U.D.Clerk	Rs.1200-2040/-
5.	Shri K.M.Das, Record Keeper	Record Keeper	Rs.825-1200/-

2. Their pay will be fixed as per normal rules.

P.D.Joshi
(P.D.Joshi)
Deputy Director.

Copy to :-

1. Person concerned.
2. Pay & Accounts Officer (Census), Ministry of Home Affairs, New Delhi.
3. Personal file.
4. Accounts Section.
5. Appointment file.

Attached
✓

28

Annexure -

A8

BH

To
The Deputy Director,
Census Operations,
Tripura, Agartala.

Sir,

I would like to draw your kind attention to my representation dated 5th March, 1984 addressed to the Director of Census Operations, Tripura regarding adjustment of appointment from the post of Head Clerk (Regular basis in the identical scale of Rs. 425-700/-) to the post of Assistant on ad-hoc basis in the scale of Rs. 425-700/- ^{2.2.84} and state that my services to the post of Assistant may kindly be adjusted on regular appointment in lieu of ad-hoc basis.

I would be grateful if you kindly make it convenient to take necessary steps in this respect at your earliest convenience so that I may get the benefit of service.

Dated, Agartala the
20.7.84.

Yours faithfully,

Haripada Roy
(H.P. Roy)

Attended
AM

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Shower - Ag

To

The Joint Registrar General, India,
Kotah House Annexe,
2/A, Mansingh Road,
New Delhi - 110011.

THROUGH PROPER CHANNEL

Sir,

I beg to draw your kind attention to the order No.A.11011/1/84-Estt dated 29-2-1984 of the Director of Census Operations, Tripura (copy enclosed) appointing me to the post of Assistant on ad-hoc basis and state that I was holding the post of Head Clerk which has the identical scale of pay with that of Assistant, on regular basis. Due to the abolition of the post of Head Clerk I have been appointed to the post of Assistant. In this regard my representation dated 5-3-84 to appoint me to the post of Assistant on regular basis addressed to the Director of Census Operations, Tripura followed by subsequent reminder dated 20-7-84 (copies enclosed) may kindly be referred to.

In this connection I beg further to draw your kind attention to the fact that I have been appointed to the post of Assistant on ad-hoc basis, though I was entitled to have regular appointment to the post. The ad-hoc appointment to the post will not allow me service benefit in the post of Assistant. As such I would urge upon your kind self to be gracious enough to consider my regular appointment to the post from the date I was appointed on ad-hoc basis which will allow me the service benefit of the post and for this act of your kindness I shall remain ever grateful.

Dated, Agartala,
The 5th December, 1984.

Yours, faithfully,

Haripada Roy
(HARIPADA ROY)
ASSISTANT

DIRECTORATE OF CENSUS OPERATIONS,
TRIPURA.

*Recd in
Ltr. 5/12/84
Submitted
for*

28

Regd. 39
Dinner - Aro

To
The Joint Registrar General, India,
Kotah House Annexe,
2/A, Mansingh Road,
New Delhi - 110011.

THROUGH PROPER CHANNEL.

Sir,

I would like to draw your kind attention to my representation dated the 5th December, 1984 regarding adjustment of appointment from the post of Head Clerk (Regular basis in theidential scale of Rs.425-700/-) to the post of Assistant on ad-hoc basis in the scale of Rs.425-700/- w.e.f.1-3-1984 and state that my services to the post of Assistant may kindly be adjusted on regular appointment in lieu of ad-hoc basis.

I would be grateful if you kindly make it convenient to take necessary steps in this respect at your earliest convenience so that I may get the benefit of service.

Yours faithfully,

Sd/-

Dated, Agartala,
The 8th January, 1986.

(Haripada Roy) 'Asstt.
Directorate of Census Operation,
Tripura.

1. Copy to the Jt.R.G.India, New Delhi
2. General Secretary, Census Employees' Association,
Tripura. Agartala.

8-1-86

1364
29

Annexure A1

40

To
The Registrar General, India,
Kotah House Annexe,
2/A, Mansingh Road,
NEW DELHI - 110011.

THROUGH PROPER CHANNEL.

Subject:- Representation regarding regular
appointment in the post of Assistant
under the Director of Census Opera-
tion, Tripura, Agartala.

Sir,

I have the honour to state as follows :-

On the above subject I have submitted represen-
tations to my higher authorities and my last representa-
tion dated 5-12-1984 was addressed to the Joint Registrar
General, India. However, I have not yet been even favoured
with a reply.

I was appointed as L.D. Clerk under the
Director of Census Operation w.e.f. 15-1-1962 and since
then I have been rendering my service quite diligently,
efficiently and to the full satisfaction of the authority
and my authority, being pleased, had granted my promotion
from time to time and in my promotion posts too I have
been rendering my service quite diligently, efficiently
and to the full satisfaction of the authority.

I was promoted to the post of Computer w.e.f.
30-7-1970 and then I was transferred to the post of U.D.
Clerk-cum-cashier w.e.f. 22-1-1975. Thereafter I was
promoted to the post of Accountant w.e.f. 1-4-1980 in
which post I have been regularly appointed w.e.f. 24-7-1981

Contd....P/2.

1364
A1

- 2 -

After this I was promoted to the post of Head Clerk w.e.f. 1-3-1931 on ad-hoc basis and thereafter I was regularly appointed to the post of Head Clerk w.e.f. 12-10-1933.

While I was serving in the post of Head Clerk as aforesaid I suddenly received an order dated 29-2-1934 issued by the Director of Census Operation, Tripura. In this order the Director of Census Operations, Tripura has mentioned that consequent upon the abolition of the post of Head Clerk I have ^{been} appointed against the vacant post of Assistant in the same scale of pay of the Head Clerk. But in this order it has been further added that this appointment to the vacant post of Assistant has been made by adjustment on temporary and ad-hoc basis as per instructions contained in the Message dated 23-2-1934. This appointment was made w.e.f. 1-3-1934. Since then I have been treated to be in the post of Assistant w.e.f. 1-3-1934. In this order It has also been added that the ad-hoc appointment will not count for the purpose of seniority in the respective grade of promotion and it will in no way affect the existing seniority in the different grades for consideration at the time of making regular appointment.

Your goodself may kindly take pains for the sake of rendering justice to me and have a look at the

Contd....P/3.

3B

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- 31 -

- 3 -

afore-mentioned Message No. 1/1/34-Ad.1 dated 23-2-1934 which recites that I may be adjusted against the vacant post of Assistant and there^{is} not at all anything directing that such adjustment is to be made on temporary and ad-hoc basis. But the Director has mentioned that my appointment has been made against the vacant post of Assistant on temporary and ad-hoc basis as per the instructions contained in the aforesaid Message. In this appointment order the words temporary and ad-hoc basis have been added by the Director on his own. Since my appointment to the post of Assistant has been made by adjustment on the basis of the aforesaid Message dated 23-2-1934 and since the Message clearly shows that the appointment should be made on regular basis, hence the order of my appointment dated 29-2-1934 needs ^{to be} read as an order of appointment on regular basis for all practical purposes. This order ~~is~~ neither ^{mentions} any specified period ^{is it for} nor have until further order. There cannot be any order/appointment ^{of} on ad-hoc basis for unlimited period and in fact I have been continuing in the post since 1-3-1934 as mentioned in that order. Moreover, the words temporary and ad-hoc are again redundant, contradictory and clearly to be read as non-est. I have been performing all functions and duties ^{of} ~~in~~ the post of Assistant which I would have performed if my order of appointment contained a recital ~~tion~~ that it is an appointment on regular basis. The order of appointment was made in such a situation which required that my appointment to the post of Assistant is a trans-
position of my regular appointment ^{from} ~~to~~ the post of Headclerk

Contd....P/2

Altered
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- 32 - 33 -

No.A.23020/1/81-Estt(Part)
Government of India
Ministry of Home Affairs
Directorate of Census Operations
Tripura.

Amerson - A12
44

Dated, Agartala the

30 JAN 1986

M E M O R A N D U M

I am directed to inform that the representation dated 8.1.1986 of Shri Haripada Roy, Assistant addressed to the Joint Registrar General, India for regularisation of his appointment in the post of Assistant was considered by the office of the Registrar General, India, but the same could not be acceded to as the post of Assistant was a temporary post sanctioned for 1981 Census upto 28.2.1986.

The question of filling up the post of Assistant on regular basis will, therefore, arise only after this post is continued on long term basis. It is also to inform him that no further representation on this point may be entertained.

In view of this his representation dated 14.1.1986 addressed to the Registrar General, India may be treated as withheld.

D. K. Choudhuri
30.1.86
(D. K. Choudhuri)
Assistant Director of Census
Operations, Tripura.

To
Shri Haripada Roy, Assistant
Directorate of Census Operations,
Tripura, Agartala.

Studied
MS

No.4/41/82-Ad.I
Government of India
Ministry of Home Affairs
OFFICE OF THE REGISTRAR GENERAL, INDIA.

2-A, Mansingh Road,
New Delhi.

Dated, the 25 AUG 1984

N O T I F I C A T I O N

G.S.R.In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the twentythree recruitment rules mentioned in Appendix II to these rules in so far as they relate to the post of Head Assistant except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the said posts of Head Assistant in the various offices of the Registrar General, India, the Language Division of the Office of the Registrar General of India as well as all the offices of the Directors of Census Operations in the States and the Union territories namely :-

1. Short title and commencement(1):- These rules may be called the office of the Registrar General, India, and the office of the Directors of Census Operations, in States and Union territories (Head Assistant) Recruitment Rules, 1984.

(2) They shall come into force on the date of their publication in the official gazettee.

2. Application:- These rules shallAppendix I to these rules.

3. Number of posts, classification and scale of pay :-

The number of the said post, its classification, and the scale of pay attached thereto shallules.

4. Method of recruitment, age limit, education, and other qualifications, etc.

The method of recruitment, age limit,on such transfer.

5. Disqualification :- No person

a) who has entered into, or contracted,

or

b) who, havingof this rules.

6. Power to relax :- Where the Central Government is of the opinion that it is necessary or expedientof this rule.

7. Saving :- Nothing in these rules shall effect reservation, relaxation of age limit, and other concessions required to be provided for the candidates belonging to Scheduled Caste, Scheduled Tribes and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

SD/- L.K. Prasad
Assistant Director.

M. K. Prasad

24

35 -

THE SCHEDULE

Recruitment Rules for the post of Head Assistant in the office of the Registrar General, India, Ministry of Home Affairs.

Name of post	Number of post	Classification	Scale of Pay	Whether Selection post or non-selection post	Whether benefit of added years of service admissible under rules 30 of the CCS (Pension Rules, 1972.	Age limit for direct recruits	Education and other qualification required for direct recruits.
1	2	3	4	5	6	7	8
Head Assistant	31 Detailed break-up shown in Appendix I	General Central Service Group 'C' Non-Gazetted Ministerial.	Rs. 550-20-650-25-750	Selection	No	30 years (Relaxable upto 35 years for Government servants in accordance with the instructions or orders issued by the Central Government)	<u>Essential</u> i) Degree of a recognised University or equivalent. ii) 5 years' experience in administration establishment, and cash accounts matters in a Government Office or a commercial firm of repute in Anaman & Nicobar Islands, Lakshadweep). In respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to submit names.

*Subject to variation dependent on workload.

Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than Anaman & Nicobar Islands, Lakshadweep). In respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to submit names.

Noted

Whether age and qualifications prescribed for direct recruits will apply in the case of promotees.	Period of promotion if any.	Method of Recruitment, whether direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.	In case of recruitment by promotion/deputation/transfer, grades from which promotion, deputation, transfer to be made.	If a Departmental Promotion Committee exists, what is its composition.
9	10	11	12	13
No	2 years	By promotion, failing which by transfer on deputation/transfer, and failing both by direct recruitment.	Promotion: Assistants in the respective offices with 3 years' regular service in the grade (Bs. 425-15-500-EB-15-560-20-700)	Group 'C' Departmental Promotion Committee (for the Language Division at Calcutta.

*Transfer on deputation/Transfer:

Officials of Central Government/State Government holding analogous posts or with 3 years regular service in posts in the scale of pay of Rs. 425-700 or equivalent and possessing the educational qualification and experience prescribed for direct recruits in column 8. (Period of deputation shall ordinarily not exceeds 3 years)

1. Deputy Registrar General (Languages) or Assistant Registrar General (Languages) - Chairman
2. Assistant Registrar General (Language) or Linguist or or Research Officer (Language) or Assistant Director-Member
3. A Group 'A' Officer of another Central Government office, preferable belonging to the Scheduled Castes or the Scheduled Tribes. -Member

Submitted
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37 -
Circumstances in which Union Public Service Commission
to be consulted in making recruitment.

14

Group 'C' Departmental Promotion Committee
for the respective office of the
Directors of Census Operations in States/
Union Territories:

Not applicable

1. Director of Census Operations or Joint Director of Census Operations
or Deputy Director of Census Operations or Assistant Director of
Census Operations or Assistant Director of Census Operations (Technical) - Chairman
2. Joint Director of Census Operations or Deputy Director of Census
Operations or Assistant Director of Census Operations or Assistant
Director of Census Operations or Assistant Director of Census
Operations (Technical) - Member
3. A Group 'A' Officer of another Central Government
Office, preferably belonging to the Scheduled Castes
or the Scheduled Tribes. - Member

(V.S. VERMA)
Registrar General, India.

Submitted
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APPENDIX - I
Office-wise break-up of the number of posts
specified in Column 1 of the Schedule

Sl.No.	Name of Office	No. of posts
1.	Office of the Registrar General, India (excluding Language Division at Calcutta)	-
2.	Language Division at Calcutta	1
3.	Office of the Director of Census Operations,	
4.	-do- Andhra Pradesh	1
5.	-do- Assam	1
6.	-do- Bihar	1
7.	-do- Gujarat	1
8.	-do- Haryana	1
9.	-do- Himachal Pradesh	1
10.	-do- Jammu & Kashmir	1
11.	-do- Karnataka	1
12.	-do- Kerala	1
13.	-do- Madhya Pradesh	1
14.	-do- Maharashtra	1
15.	-do- Manipur	1
16.	-do- Meghalaya	1
17.	-do- Nagaland	1
18.	-do- Orissa	1
19.	-do- Punjab	1
20.	-do- Rajasthan	1
21.	-do- Sikkim	1
22.	-do- Tamil Nadu	1
23.	-do- Tripura	1
24.	-do- Uttar Pradesh	1
25.	-do- West Bengal	1
26.	-do- Andaman & Nicobar Islands	1
27.	-do- Arunachal Pradesh	1
28.	-do- Chandigarh	1
29.	-do- Goa, Daman, Diu	1
30.	-do- Lakshadweep	1
31.	-do- Goa, Daman & Diu and Dadra Nagar Haveli	1
32.	-do- Daman	1
	-do- Pondicherry	1
	TOTAL	31

M. S. S. S.
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Division - 444

Provisional Seniority list of Assistant under the Establishment of the Directorate of Census Operations, Tripura as on 1.6.94.

Sl.no.	Name & date of birth	Educational & other qualification.	Date of entry into Govt. service.	Date of appointment to a post in graded scale of pay in Central Govt. service.	Date of temporary appointment to the grade in DCC's office.	Date of confirmation in the grade.	Remarks.
1	2	3	4	5	6	7	8
1.	Shri H. P. Roy, 15.2.40	B.A.	15.1.62	22.3.90	22.3.90	-	Confirmed as U.D.C. w.s.f. 4.4.77.
2.	Shri A. B. Das, 6.1.49 (SC)	B.A.	24.5.74	23.6.90	23.6.90	-	i) Redesignated as Asstt. w.s.f. 23.6.90 ii) Confirmed as L.D.C. w.s.f. 18.1.78.

Submitted
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24/7/94
Deputy Director,
Operations, Tripura, Agartala

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI

(Agartala Circuit Bench)

O.A. No.80992

Date of Order : 2-12-1994

Shri Ajit Baran Das - Applicant.

-Vs-

Union of India & Ors. - Respondents.

For the applicant : Mr. S. Chakraborty, Advocate and also
applicant appeared in person.

For the Respondents: Mr. G. Sarma, Addl. C.G.S.C.

C O R A M

JUSTICE SHRI M.G. CHOUDHARI, VICE-CHAIRMAN
SHRI G.L. SANGLYINE, MEMBER (ADMINISTRATIVE)

O R D E R

For the reasons separately recorded we pass the
following order :

We direct the respondents that the reservation point
for Scheduled Caste be carried forward to the ensuing
effective recruitment year and since the applicant will
by that time actually complete 5 years of service as
Assistant, we further direct the respondents to consider
the appointment of the applicant by promotion to the post
of Head Assistant in the next vacancy that may arise
hereinafter.

We make it clear that the applicant had stated before
us that on promotion if given to him in the next vacancy he
will not claim seniority over respondent No.4 Sri P.R.
Brahmachari nor will object to his further promotion. It is
also recorded that the applicant as well as Sri Bhowmick

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and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Shri Bhowmick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

The application is partly allowed in terms of the above order. There will be no order as to costs.

(Detailed reasons will follow)

Sd/- M.G. CHAUDHARI
VICE-CHAIRMAN

Sd/- G.L. SANGLYINE
MEMBER (ADMN)

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CENTRAL ADMINISTRATIVE TRIBUNEL
GUWAHATI BENCH

Original Application No.80 of 1992

Date of Order : This the 2nd day of December 1994
(At. Agartala)

Justice Shri M.G. Chaudhari, Vice-Chairman
Shri G.L. Sanglyine, Member (Administrative)

Sri Ajit Baran Das, son of Sri Ananda Charan
Das of Shibnagar College Road Extension,
P.O. Agartala College, Agartala, Tripura. - Applicant.

-Vs-

1. The Union of India represented by
Secretary to the Govt. of India, Ministry
of Home Affairs, New Delhi.
2. The Registrar General & Census Commissioner,
Govt. of India, Kotah House Annexe, 2/A,
Mansingh Road, New Delhi-110 011.
3. The Director of Census Operation, Tripura,
14/1, Krishnanagar, P.O. Agartala.
4. Shri Pracheta Ranjan Brahmachary, Head Asstt.
Directorate of Census Operation, Tripura, 14/1
Krishnanagar, P.O. Agartala - Respondents.

By A-dvocate Mr. G. Sarma, Addl. C.G.S.C.

ORDER (Reasons in support of operative
order pronounced on 2-12-94)

C.L. SANGLYINE (MEMBER, A)

km
This application under Section 19 of the
Administrative Tribunals Act 1985 has been submitted by
Shri Ajit Baran Das, now working as Assistant in the office
of the Director of Census Operation, Tripura, Agartala.
In this application he has impugned the Order No.
F.5(11-E)-80/64 dated 28-2-1992 (Annexure-H) promoting

Contd...2/-

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Shri Pracheta Ranjan Brahmachary to the post of Head Assistant in the above mentioned office. The case of the applicant is that the vacancy against which Shri Brahmachary was promoted was erroneously treated as an unreserved vacancy and this action of the respondents had deprived him, a member of scheduled caste community, from being promoted to the post of Head Asstt. His main prayer is that he should be promoted as Head Asstt. immediately against a reserved vacancy. The respondents have contested the application by filing written statements. Their contention is that the claim of the applicant that the vacancy should have been treated as a reserved vacancy for scheduled caste is wrong. According to them the First Point in the 40 point Roster belongs to Scheduled Caste and this point was consumed by Shri P.C. Das on his appointment as Head Assistant. Shri P.C. Das is a member of scheduled caste community and had filled the post on his own merit when he was appointed to the post. The respondents contend that this being a single vacancy "it need not be treated as unreserved and the reservation should not be carried forward". Moreover, the applicant was appointed to the post of Assistant by transfer on 23-6-1990 and, as such, had not possessed the necessary experience of 3 (three years as Assistant on 28-2-1992 and therefore had not qualified for promotion to the post of Head Assistant.

2. We have examined carefully the contentions of both sides. While noticing that the merit of the later contention of the respondents is open to debate, we have no hesitation to hold the view that on the basis of the facts of this

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case the contention of the respondents regarding the issue of reservation is untenable. In 1964, after the Office of director of Census Operation, Tripura, Agartala was created an advertisement was issued for filling up the post of Head Asstt. in that office by direct recruitment through a limited open field. There was no Recruitment Rules for Head Asstt. at that time. Sri P.C. Das, a member of scheduled caste community, successfully competed and was on his own merit appointed to the said post of Head Asstt. on 26-4-1965 and he joined the post. He was promoted to a higher post of office Superintendent in 1979. The Recruitment Rules for Head Asstt. came into force with effect from 25-8-1984. On 2-3-1985 Sri H.R. Bhowmick was promoted as Head Assistant on regular basis. Prior to this promotion Shri Bhowmick was officiating in the post on adhoc basis. Shri Bhowmick is not a member of scheduled caste community. On 28-8-1990 Sri Bhowmick was promoted to the higher post of Office Supdt. The Recruitment Rules for Asstt./Head Clerk came into force w.e.f. 23-6-1990. The applicant was appointed as Asstt. with effect from that date. From 28-8-1990 to 28-2-1992 the post of Head Assistant remained vacant according to the applicant. This has not been disputed by the respondents. Sri P.R. Brahmachary was promoted to the post of Head Asstt. on 28-2-1992. Shri Brahmachary is not a member of scheduled caste community. Apparently, the applicant was not considered for promotion on the ground that in February, 1992 he did not possess the requisite qualifications and that, at any rate, even if he was considered and found fit he could not be promoted as there was no vacancy reserved for

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for scheduled caste. In that event the promotion was given to Shri Brahmachary who is a general candidate and senior to the applicant and also eligible for the post. We find that there was a gap of about 6 years from 1979 when Shri P.C. Das vacated the post of Head Asstt. to 1985 when Shri H.R. Bhowmick was promoted to the post of Head Assistant. The respondents did not care to clarify in their written statements as to what happened to the post of Head Asstt. during that period. We have therefore sought clarification about this matter during the course of hearing and Shri H.R. Bhowmick Office Supdt. verbally explains to us that the vacancy was filled up by means of deputation before he took over the post. We presume that the clarification given by Shri Bhowmick is correct. As would be seen from the facts narrated above, Shri P.C. Das was recruited to the post of Head Asstt. against Direct Recruitment Roster. Even if the Roster for Direct Recruitment is taken to be the same with the Roster for promotion, as that would seem to be the contention of the Respondents, that Roster had broken because of the fact that for almost six years from 1979 to 1985 the vacancy in the post of Head Assistant had been filled by Deputation. However, in the facts of this case, in our view the promotional Roster started with reference to the vacancy in the post of Head Assistant against which Shri H.R. Bhowmick was promoted. The first point in the Roster belongs to Scheduled Caste but since it was a single vacancy it ceased to be a reserved vacancy. It was filled by Shri Bhowmick who is not a reserved candidate and was otherwise eligible for promotion to the post. This is the correct procedure and even the

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applicant has no objection to it. The reservation was thereafter to be carried over to the next effective recruitment year. This was not however done and Shri Brahmachary was promoted to the post of Head Asstt. in 1992 against an unreserved vacancy. In our opinion the reservation for scheduled caste in this base should have been carried forward to 1992 and since, according to the respondents, no eligible scheduled caste candidate was available even then the reservation was to be carried forward further to the next effective recruitment year to be filled by an eligible member of scheduled caste community, if any. This would be in keeping with the instructions issued by the Govt. of India. We are informed verbally that the next vacancy will arise in 1995.

3. The Recruitment Rules for Head Assistant came into force with effect from 25-8-1984. The qualification for promotion to the post of Head Asstt. is that a person should have worked as Assistant in the respective Office with 3 years' regular service in the grade of Rs.425-700/- (Pre-revised) For Direct recruitment to the post, a University Degree with a 5 years experience as prescribed in column 8 of the schedule to the Rules are required. For appointment by Transfer the requisite qualifications are holding an analogous post to Assistant or with 3 years regular service in the grade of Rs.425/- - 700/- (Pre-revised) or equivalent and all the qualifications and experience required for direct recruitment above. The amended recruitment Rules for Assistant/Head Clerk came into force with

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with effect from 23-6-1990. The qualification for promotion to the post of Upper Division Clerk with 5 years regular service in the grade 1200-2040/- The qualification for appointment by transfer is holding an analogous post to Upper Division Clerk or with 5 years regular service in the scale of pay of Rs.1200-2040/- and possessing the qualifications required in respect of direct recruitment to the post, namely a University Degree and 3 years experience as prescribed in column 8 of the schedule to the rules. The applicant was an Accountant in the scale of Rs.425-640/- (Pre-revised). With effect from 1-1-1986 the pay scales of Accountants and Assistants became same, namely Rs.1400-2300/- There was a proposal to amend the Recruitment Rules of Assistant so as to provide for appointment of regularly appointed Accountants to the posts of Assistant by transfer at the initial constitution. The proposal culminated in the aforesaid amended rules and a Note to the effect was appropriately inserted against column 11 of the relevant Schedule to the recruitment rules. This note reads :

"The regularly appointed Accountants in the scale of pay of Rs.425-640/- (Pre-revised) shall be deemed to have been appointed by transfer as Assistants in the scale of pay of Rs.1400-2300 (Revised) on regular basis in the respective offices at the initial constitution".

We have stated hereinabove that the question whether the applicant was qualified for promotion to the post of Head Assistant as in February, 1992 was debatable. This is so because in the 'Note' above it has been stated that the regularly appointed Accountants shall be deemed to have been appointed by transfer as Assistants on regular basis

at the initial constitution. The date of this initial constitution is not clear. It could perhaps date back to 1-1-1986 as contended by the applicant. The applicant was appointed as Assistant by ~~the~~ transfer. The qualifications for appointment by promotion to the post of Head Asstt. are set out already above. It is not clear from the Recruitment Rules for Head Assistants whether the 'deemed' appointment of such Accountants under the 'Note' aforesaid would meet the requirements of eligibility prescribed under the rules. If it does and if the initial constitution dates back to 1-1-1986, the applicant had the requisite qualifications in 1992. The respondents, on the other hand, contend that the applicant was to be taken into consideration only with effect from 23-6-1990 on which date the Recruitment Rules for Assistant came into force and from which date the post of Accountant stood abolished. According to them it was with effect from that date only that the Accountants were deemed to have been appointed as Assistants. However, we are not inclined to read anything into the stipulations mentioned in the Schedule to the Recruitment Rules for Head Assistant in regard to promotion to that post apart from what is explicitly provided therein, namely -

"Promotion : Assistants in the respective
Offices with 3 years regular service in the
grade (Rs.425-15-500-EB-15-560-20-700)".

This scale is now equivalent to the scale of pay of
Rs.1400-2300/-.

4. For the reasons recorded above we pass the following order :

We direct the respondents that the reservation point for Schedule Caste be carried forward to the ensuing effective recruitment year and since the applicant will by that time actually complete 5 years of service as Assistant we further direct the respondents to consider the appointment of the applicant by promotion to the post of Head Assistant in the next vacancy that may arise hereinafter.

5. We make it clear that the applicant has stated before us that on promotion if given to him in the next vacancy he will not claim seniority over respondent No.4 Sri P.R. Brahmachary nor will object to his further promotion. It is also recorded that the applicant as well as Sri Bhowmick and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Sri Bhowmick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless a vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

6. The application is partly allowed in terms of the above order. There will be no order as to costs.

(Operative Order in terms of paras 4,5 and 6 pronounced on 2-12-94)

Sd/- M.G. Chaudhari
Vice-Chairman

Sd/- G.L. Sanglyine
Member (Admn.)

Dr. Hirendra Kumar Bhattacharya

M. Sc. Ph. D. (Appl. Maths) LL. B.

ADVOCATE

Gauhati High Court, Agartala Bench

High Court Bar Association

Phone : 4862

Residence :

5. Ramnagar

P. O. Ramnagar

Agartala-799002

Tripura (West)

Date.....20/9/95

DEMAND NOTICE

To

- 1) The Secretary to the Government of India,
Ministry of Home Affairs, New Delhi.
- 2) The Registrar General & Census, Commissioner,
Government of India,
Kotah House Annex, 2/A, Mansingh Road,
New Delhi - 110 011.
- 3) The Director of Census Operation,
Tripura, 14/1, Krishnanagar,
P.O. Agartala, West Tripura District.

.....Notice Receivers.

For and on behalf of :-

Shri Haripada Roy, Assistant,

S/O Late Mono Mohan Roy,

Resident of Madhya Badharghat,

P.O. - A/D Nagar, West Tripura District.

.....Notice Giver.

Contd..p/2.



Haripada

Dear Sir,

Under instruction and for and on behalf of my aforesaid client Shri Haripada Roy, Assistant, Exipm under Directorate of Census Operation Agartala, Tripura I serve this Notice upon you the Notice Receivers, stating the facts, claiming reliefs as hereunder :-

2) That my aforesaid client was appointed as Clerk vide Order No.F.5(11-C)-Co/59 dated 15-1-1962 issued by Superintendent, Census Operation, Tripura and joined in the office of the Superintendent on 15-1-1962AD. Thereafter, he has been promoted to the post of Computer on 30-7-1970 vide Order No.F.5(45)-Co/69 dated 27-7-1970 issued by Director of Census Operation, Tripura. Thereafter, my client has transferred / redesignated in the post of U.D. Clerk-cum-Cashier as because the pay scale of Computer and U.D. Clerk-cum-Cashier are same and identical and joined in the said post on 22-1-1975. Again, by an order No. F.

Contd..p/3.

5(91)-CO/70 dated 8-1-1975 my client was promoted on adhoc basis to the post of Accountant and joined in the said post on 1-4-1980. My client was regularised in the said post of Accountant on 24-7-1981 by vide Order No.A.11015/2/79-Estt dated 30-4-1982 issued by Director of Census Operation, Tripura.

2) That , thereafter my client was promoted to the post of Head Clerk on adhoc basis with effect from 1-3-1981 and regularised in the said post with effect from 12-10-1983 vide Order No.A.12025/3/81-Estt dated 13th October, 1983 issued by Director of Census Operation, Tripura. Thereafter, again appointed to the post of Assistant on adhoc basis vide Order No.A.11011/1/84-Estt dated 29-2-1984 issued by Director of Census Operation, Tripura and my client was regularised in the said post of Assistant with effect from 22-3-1990 vide Order No.A.12020/2/81-Estt dated 2-5-1990 issued by Director of Census Operation, Tripura. My client at present also has been

Contd..p/4.

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performing duties in the said post of Assistant.

3) That there is a single and isolated post of Head Assistant in the office of Directorate of Census Operations, Agartala created by the Registrar General of India. This post is a single isolated post. One P.R. Brahmachary was promoted in the said post on 28-2-1992 of Head Assistant and said P.R. Brahmachary is not a member of Scheduled Caste Community. Said Shri P.R. Brahmachari will^{be} on promotion to the post of office superintendent in the month of October, 1995. My client is the seniormost eligible candidate as per recruitment Rules framed for the said post of Head Assistant. The seniority list of Assistant published as on 1-6-1994 will show that the name of my client is placed in Sl.No.1. As such my client is the only eligible seniormost candidate for the post of Head Assistant and after promotion of said P.R. Brahmachari, my client is entitled to be promoted in the said

Contd...p/5.

post of Head Assistant. There is another Assistant in the office whose name is below the name of ~~the~~ my client in the said seniority list of Assistant published as on 1-6-1994.

4) That it is learned from reliable sources that you the Notice Receivers are making all ~~an~~ arrangements to fill up the said single isolated post of Head Assistant which will be vacant in the month of October, 1995 after promotion of Shri P.R. Brahmachari by reserved candidates denying the legitimate right of my client. But the single isolated post of Head Assistant was never filled up by any reserved candidate since the creation of the post in the Directorate of Census Operation, Tripura and ~~aways~~ it was filled by merit. Hon'ble Supreme Court of India in the case of Dr. Chakradhar Paswan Vs. The State of Bihar and Others (AIR 1988 SC 959) held that the principle of reservation do not apply in a single isolated post and no reservation

Contd.. p/6.

could be made under Article 16(4) of the Constitution of India so as to create monopoly and otherwise, it would render the guarantee of equal opportunity contain in Article 16(1) and 16(2) wholly meaningless, illusory. If there is only one post in the cadre, there can be no reservation with reference to that post either for recruitment at the initial stage or for filling up a future vacancy in respect of that post. If the principle of reservation apply in a single isolated post then it will amounts to 100% reservation. The Hon'ble Supreme Court, thereafter, also in another case Smti Chetana Dilip Motghare Vs. White Girls Education Society (AIR 1994 SC 1917) relying upon the views of Dr. Chakradhar Paswan's case held that the principle of reservation would not apply in the case of an single and isolated post and thereof single promotional post cannot be reserved and as such reservation is impermissible.

Contd...p/7.

The Division Bench of Hon'ble Gauhati High Court also in Civil Rule No.70 of 1989 (Shri Mrinal Kanti Ghosh Vs. State of Tripura and Others) Hon'ble Gauhati High Court held that the principle of reservation will not apply in the case of single and isolated post and it will amounts to 100% reservation.

5) That my client is also at the verge of retirement and the promotion to the post of Head Assistant will be the last avenue of promotion of my client in his service life. The post of Head Assistant which will be vacant in the month of October, 1996 after ^{completion} promotion of Shri P. R. Brahmachari is a single and isolated post and my client is only the seniormost eligible candidate for the said post and the principle of reservation will not apply in this case.

Under the above facts and circumstances. I therefore, serve this Notice upon you the Notice Receivers, requesting you to consider the

Contd..p/8.

promotion of my client to the single and isolated post of Head Assistant to be fill vacant after promotion of Shri P. R. Brahmachari from the said post in October, 1995 in default of which my client will file an application/ case in a Court of competent jurisdiction for the said reliefs and in that case too the Notice Receivers will be liable for all costs involved therein.

Yours faithfully,

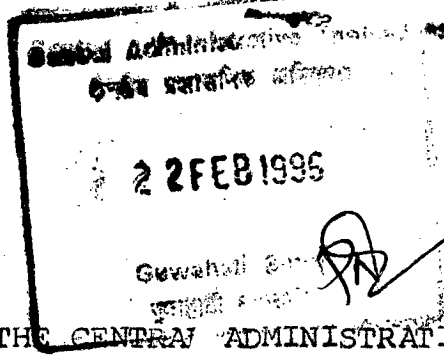
L. K. Roy
25/9/95
(L. K. Roy, Shattacharjee)

Advocate

Gauhati High Court

Agartala Bench.

Shri
for



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Filed by.

Haripada Roy
H. Roy

Mr. Anji Roy, Advocate
23/2/96

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH AT GUWAHATI.

In the matter of:

A re-joinder to the application
filed in OA No. 261/95 in reply
to the written statement submitted
on behalf of the respondent No. 5. ✓

-And-

In the matter of:

OA No. 261/95

Shri Haripada Roy.

Applicant.

-Versus-

Union of India & Ors.

Respondents.

The above named appellant-

MOST RESPECTFULLY SHEWETH:

1. That the statements made in the
written statement of the respondent No. 5 as
are contrary to those made in the application
are incorrect and are denied by the applicant
and the applicant reiterates and reaffirm the
statements made in the application.

2. That with regard to the statements made
in paragraph 1, 1(a), 1(b) and 1(c), the applicant
denies that the post of Head Assistant would be

accounted department wise and not directorate-wise. It is also denied that the post of Head Assistant in the Directorate of Census Operation, Tripura is not a single isolated post to a single vacancy and that no particular post is created for a particular directorate. The applicant states and contends that the respondent No. 5 has totally misconstrued and misinterpreted the recruitment rule referred to in the paragraphs under reply. The instances of any division of the Office of the Registrar General of India and the transfer of one post of Office Superintendent (temporary post) from Maharashtra to Tripura and that of another permanent post of Office Superintendent from Haryana to Karnataka, do not in any way support the contention of the respondent No. 5 and are also wholly irrelevant and insignificant for the purpose of adjudicating the issues involved in the instant proceedings.

3. The applicant states that the Registrar General and Ex-Officio Census Organization and of the Group (b), (c) and (d) posts are created by the Secretary, Ministry of Home. The 31 posts of Head Assistants were created and distributed in 31 Directorate of Census Operation in the States and Union Territory

of India . . .

-3-

of India as enumerated in the Appendix to Annexure-3 of the application. It is apparent from the Office-wise break up of the number of posts as reflected in the said document that there is one post of Head Assistant in the Office of the Directorate of Census operation, Tripura, it may be relevant to state here that all promotional posts in the Group (b)(c) and (d) are filled up as per the seniority of the incumbents in the feeder posts in all respective directorates. The seniority of the incumbents are maintained in the Directorate and not at the national level. The incumbents holding the post in the Directorate are also not transferable from one Directorate to the other. As stated in the application, the post of Head Assistant is to be filled up by the seniormost Assistant in the respective directorate. It would be further apparent from the statements showing the staff pattern in the Directorate of Census Operation, Tripura as on 30.9.95 that there is one post of Head Assistant in the said Directorate. It is therefore evidently clear that the post of Head Assistant in the Directorate of Census Operation, Tripura is a single isolated post and therefore the question of reservation of that post for Scheduled Cast and Scheduled Tribe candidates does not arise. As a matter of fact, in view of the law settled by the Apex Court such reservation is not

permissible . . .

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-4-

permissible in law. The contentions raised by the respondent No. 5 in his statement in this regard are therefore wholly untenable and are liable to be rejected in limine.

A copy of the statement showing the staff position of the Directorate of Census Operation, Tripura as referred to above has been annexed to the re-joinder marked as Annexure-6.

4. That with regard to the statements made in paragraph 2, 2(a) and 2(b) of the Written statement, the applicant reiterates and reaffirm the statements made in the application. The reference to Rule 7 of the Recruitment Rules with regard to reservation, relaxation, etc. as made by the respondent No. 5 in paragraphs under reply is wholly uncalled for and is irrelevant in the facts and circumstances of the case. The post in question being a single isolated post, question of reservation does not arise and the provisions of the rules with that regard is clearly not applicable to such post. The contention of the respondent No. 5 with reference to that rules of the Recruitment Rules is misconceived. The applicant denies that the post of Head Assistant is not a single isolated post and that it is a single vacancy in the subordinate Office of the

Registrar . . .

Registrar General of India. The respondent No. 5 has also misled the Recruitment Rules in contending that the post of Head Assistant in the Directorate of Census Operation is not a single isolated post.

5. That with regard to the statements made in paragraph 3 and 4, the applicant states that those are not at all relevant for the purpose of the instant case, inasmuch as, the issue of seniority in the post of Assistant in the Directorate of Census Operation, Tripura has become final between the parties and the same was not challenged at any point of time by the respondent No. 5. As a matter of fact, the said issue was also not raised by the respondent No. 5 in OA 80/92. The respondent No. 5 cannot thus be permitted to agitate the said issue in the instant proceeding. In any view of the matter, bearing the service particulars of the applicant and the respondent No. 5, it would be clear that the applicant is senior to the respondent No. 5 in the post of Assistant. As a matter of fact, the respondent No. 5 is junior to the applicant in service by 12 years. The applicant denies that the post of Assistant against which he was serving was a reserved point vacancy for scheduled cast candidate and

that the . .

that the Deputy Director of Census Operation, Tripura suppressed the fact with regard to availability of scheduled cast candidate in the feeder ~~@@@~~ grade as alleged by the respondent No. 5. It is denied that the said authority misused the power delegated by the Registrar General of India and that he ~~as~~ ~~sent~~ the proposal for dereservation concealing the facts. It is denied that as per the recruitment rules, the respondent No. 5 was eligible for regular promotion to the post of Assistant on 3.1.86 and that he was intentionally deprived of his constitutional rights in violation of the reservation policy.

6. That with regard to the statements made in paragraph 5 and 6, the applicant denies that the post of Assistant to which he was promoted was a reserve point vacancy for scheduled cast. In any case, the said issue cannot be permitted to be agitated in the instant proceeding. The applicant states that the respondent No. 5 deliberately did not implead him as a party in OA 80/92 ~~@@@~~ ~~as~~ though he was fully aware that any decision therein would have a vital bearing on his right to be considered for promotion to the post of Head Assistant. It was only when the respondent No. 1 to 3 had with taken steps in connection/the promotion of the

respondent No. 5 ..

respondent No. 5 to the post of Head Assistant purportedly in terms of the judgment and order dated 2.12.94 of this Hon'ble Tribunal in OA 80/92, that the applicant came to know the same. He therefore represented before the authorities and when the same did not evoke any response he approached this Hon'ble Tribunal with the instant petition. The applicant states and contends that the respondent No. 5 cannot claim promotion in law in the facts and circumstances of the case, and in the interest of justice it is necessary that the judgment and order dated 2.12.94 be reconsidered and reviewed and appropriate direction be issued for considering the applicant for promotion to the post of Head Assistant in the Directorate of Census operation, Tripura with all consequential benefits.

That the applicant craves leave of this Hon'ble Tribunal to file necessary documents and submit further re-joinder if necessary in support of the statements made hereinabove.

VERIFICATION

V E R I F I C A T I O N

I, Shri Haripada Roy, son of Late Manmohan Roy, Assistant in the Directorate of Census Operation, Tripura, Agartala, residing at Madhya Badarghat, Post Office A.D.Nagar, Agartala, West Tripura, the applicant above named, do hereby solemnly affirm that the statements made hereinaabove, are true to my knowledge, information and belief and I sign this verification on this the 23rd day of February, 1996 at Guwahati.

Haripada Roy
(HARIPADA ROY)

Statement showing the staffing position as on 30.9.95
in respect of Core, 1981-Census post & Departmental Canteen.

Annexure 6

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Sl.No.	Name of the post	Sanctioned strength	Working strength	Vacancy position	Remarks
1	2	3	4	5	6
1.	Deputy Director	1	1	-	
2.	Assistant Director	1	-	1	
3.	Office Superintendent	1	1	-	
4.	Head Assistant	1	1	-	
5.	Senior Stenographer	1	-	1	
6.	Assistant	3	3	-	
7.	Hindi Translator	1	1	-	
8.	U.D. Clerk	6	4	2	
9.	L.D. Clerk	5	5	-	
10.	Driver	1	1	-	
11.	Jr. Gestetner Operator	1	1	-	
12.	Record Keeper	1	1	-	
13.	Duftry	1	1	-	
14.	Peon	6	6	-	
15.	Chowkider	3	3	-	
16.	Farash	1	1	-	
17.	Librarian	-	-	-	* Kept in aboyance due to creation of UDC for Library work.
18.	Investigator	5	4	1	
19.	Statistical Assistant	9	9	-	
20.	Computer	14	10	4	
21.	Assistant Compiler	4	2	2	
22.	Cartographer	1	1	-	
23.	Senior Artist	1	-	1	
24.	Artist	1	1	-	
25.	Draftsman	2	2	-	
26.	Hand Press Machine Operator	1	-	1	
DEPARTMENTAL CANTEEN		72	59	13	
1.	Counter Clerk	1	-	1	
2.	Tea/Coffee Maker	1	1	-	
3.	Wash/Dish Boy Cleaner	1	-	1	
		3	1	2	

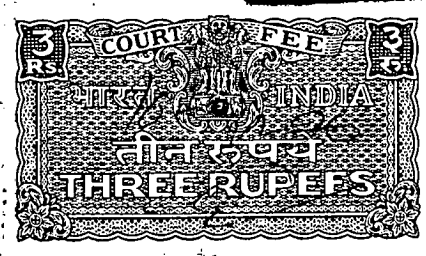
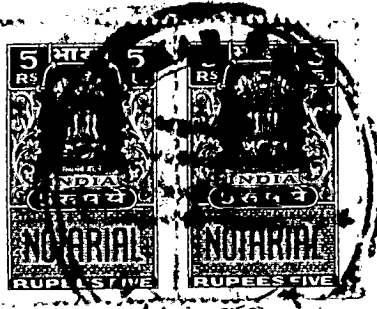
Filed in Court
on 4.2.97.
Bon
Court Master

67

Haripada Roy

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12/12/96
Advocate



190/12/96

1-7-97
17 FEB 1997
Gauhati Bench
High Court

Before,

The Central Administrative Tribunal,
Gauhati Bench, Gauhati, Assam.

O.A. No. 261 of 1995.

Shri Haripada Roy.

.....Appellant.

Versus

Union of India and Others.

.....Respondents.

A F F I D A V I T

I, Shri Haripada Roy, Son of Late Monomohan Roy resident of Amtali, P.S. Amtali, Agartala, West Tripura District, by caste Hindu, by profession - Government service, age 56 years, do hereby declare and affirm on oath as follows :-

- 1) That I am the applicant of the aforesaid O.A. No.261 of 1995 and well conversant with the facts and circumstances of the case.

This is true to my knowledge.

Contd...p/2.

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C. S. C. S. C.
4/2/97

3 DNR
16.12.96
certified by the Secy. of Dist.



- 2 -

Hareybadh Ary

By 79
Information
Adm. Secy
16/12/96

2) That Shri P.R. Brahmachari, Head Assistant in the office of the Director of Census Operation, Tripura has been promoted to the post of Office Superintendent in the pay scale of Rs.1640-2900/- vide Order No.11/12/94-AD.4 dated 18-10-96 issued by ~~Director~~ Deputy Director of the Office of the Registrar General of India, Ministry of Home Affairs, New Delhi. The copy of the order dated 18-10-1996 is enclosed herewith and marked as Annexure.

This is true to my knowledge.

3) That as a result of the promotion of Shri P.R. Brahmachari from the post of Head Assistant to the post of Office Superintendent with effect from 23-10-1996, the post of Head Assistant has fallen ~~vacant~~ vacant.

This is true to my knowledge.

4) That aforesaid post of Head Assistant has been filled up on adhoc appointment by Shri Ajit Das, Assistant with effect from 15-11-1996.

This is true to my knowledge.

Contd...p/3.

SD/AR
NOTARY
16.12.96
GOVERNMENT OF INDIA



Haripada Roy

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Haripada Roy
16/12/96

- 3 -

5) That the instant affidavit swear before the Ld Notary Public at Agartala since there is no Branch of Central Administrative Tribunal of Gauhati at Agartala.

This is true to my knowledge.

Signed this affidavit today the 16th day of December, 1996 before the Notary Public, Agartala in the Court Premises.

Haripada Roy
Deponent.

The Deponent is known to me.

K. Bhatia
Advocate.

(Dr. H. K. Bhattacharya, Advocate)
16/12/96

AFFIDAVIT

SOLEMNLY AFFIRMED BEFORE ME

By Haripada Roy
of Amtali, P.S. Amtali

Identified by Dr. H. K. Bhattacharya, Advocate

This on 16th day of Dec. 1996
at Agartala A.M. / P.M. 2:30 PM

3012
NOTARY
16.12.96
appointed by the Govt. of India

70
BY SPEED POST

Teleg: "REGGENLIND"

सं. No. 11/12/94-Ad.IV

भारत सरकार
GOVERNMENT OF INDIA

गृह विभाग

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक 2/A, Mansingh Road,
New Delhi, the 16th October, 1996

ORDER

On the recommendation of the Departmental Promotion Committee, the Registrar General, India is pleased to appoint the following Head Assistant in the office of the Director of Census Operations, Tripura as Office Superintendent in the pay-scale of Rs.1640-60-2600-EB-75-2900 by promotion in the same office in a temporary capacity with effect from 23.10.96 or the date of his taking charge of the post, whichever is later and until further orders:

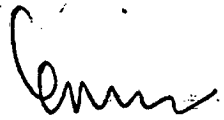
1. Shri P.R. Brahmachary
2. He will be on probation for a period of two years.
3. He should exercise his option for pay fixation under FR 22 (a) (1) within one month from the date of promotion.

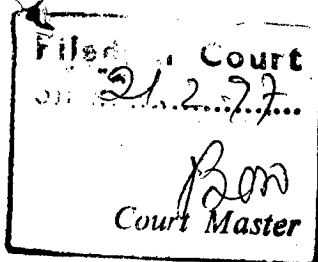

(K. VIVEKANAND)
DEPUTY DIRECTOR

No.11/1/96-Ad.IV
Copy to:

New Delhi, the 16th Oct

1. Director of Census Operations, Tripura, Agartala (with one spare copy for the individual concerned).
2. Pay & Accounts Officer (Census), MHA, AGCW&M Building New Delhi.
3. Records Assistant, RG's Office.
4. Order file.


(K. VIVEKANAND)
DEPUTY DIRECTOR



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :
GUWAHATI BENCH AT GUWAHATI.

O.A. NO.261/95

Haripada Roy

- Vs-

Union of India & Others.

-AND-

IN THE MATTER OF :

Written Statements submitted by the
Respondents No.1,2 & 3.

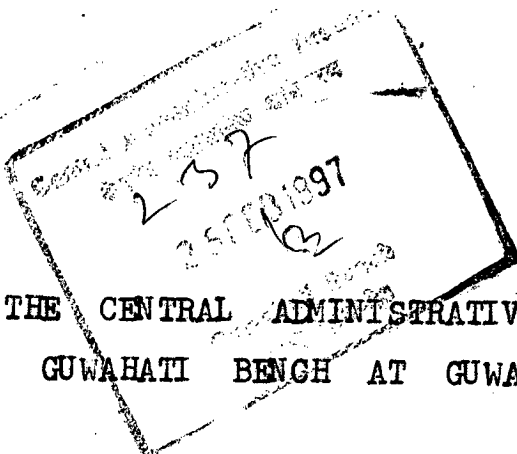
(WRITTEN STATEMENTS)

The humble Respondents submit their
Written Statements as follows :

- 1) That with regard to the statements made in paragraphs 1, and 2 the Respondents state that those are matters for the Hon'ble Tribunal.
- 2) That with regard to the statements made in paragraph 34 of the application the Respondents beg to state that it is a fact that there are 31 posts of Head Assistant in the Department as mentioned in the Recruitment Rules, out of which, one post was provided in the Directorate of Census Operations, Tripura and as such the post of Head Assistant is not a single and isolated post as per provisions of Recruitment Rules(Copy enclosed)(vide Annexure-I). The applicant also stated that Shri P.R. Brahmachary, who was promoted to the said post of Head Assistant on 28.2.92, had already been promoted to the post of

(Contd.)

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Filed by

Haripada Roy

31/1/97

21/2/97

Central Administrative Tribunal

Guwahati Bench

Office Superintendent which is not correct. Shri Brahmachary was not promoted to the post of Office Superintendent till that date. Proposal for promotion in respect of Shri Brahmachary to the said post was sent to the Registrar General, India and the case was under consideration. However, Shri Brahmachary has since been promoted w.e.f. 23.10.96 vide Registrar General, India's letter No.11/12/94-Ad.IV dated 16/18th October, 1996(Copy enclosed-Annexure-I-A). As per directive on O.A. No.80/92 dated 2.12.94 issued by the Hon'ble CAT, Guwahati Bench, Shri A.B. Das, Assistant(Respondent No.5) would be considered for promotion to the post of Head Assistant as and when vacancy would arise to the resultant vacancy to be caused by the promotion of Shri P.R. Brahmachary to the post of Office Superintendent. As such Shri A.B. Das, Assistant has also since been promoted to the post of Head Assistant on Ad-hoc basis w.e.f. 15.11.1996 (Annexure-I-B). As per order of the Department of Personnel's O.M. No.1/9/74-Estt.(SC) dated 29.4.75 the roster point is being followed up as single vacancy as per judgement of Apex Court dated 11.10.1973(vide Annexure-2). Keeping that in view Hon'ble CAT, Guwahati Bench had passed the order against O.A. No.80/92 dated 2.12.94 filed by Shri A.B. Das(Respondent No.5) Annexure-3). Beside this, this Directorate is the subordinate to the Registrar General, India, Govt. of India, Ministry of Home Affairs, New Delhi. All other allegations contrary hereto are denied and disputed.

(Contd.)

3) That with regard to the statements made in para 3(ii), 4 & 5 of the application the Respondents state that same and except what appears from record nothing else is admitted.

4) That with regard to the statements made in paragraphs 6(a) & 6(b) of the application the Respondents state that these are matter of record. The statements which are contrary thereto are denied and disputed.

5) That with regard to the statements made in paragraph 6(c) of the application the Respondents beg to state that the representation of the applicant dated 14.1.86 addressed to the Registrar General, India, New Delhi for regularisation of the applicants temporary appointment in the post of Assistant could not be acceded to as the post of Assistant was a temporary post sanctioned for 1981 Census post(vide Annexure-4). Hence, the representation dated 14.1.1986 was treated as rejected(vide Annexure-5) and Shri H.P. Roy was informed accordingly.

6) That with regard to the statements made in paragraph 6(d) of the application the statements made hereinabove are reiterated. The statements made in paragraph 6(d) which are contrary to those are denied and disputed.

7) That with regard to the statements made in paragraph 6(e) of the application the Respondents beg to state that, in view of the Hon'ble Tribunal's decision given vide g4 judgement & order dated 2.12.94

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Lawrence Gokul

passed in O.A. No.80/92 which has been annexed as Annexure-3 to this Written Statement, the point raised by the applicant in this para is of no avail and as such the application is liable to be dismissed.

8) That with regard to the statements made in para 6(f) of the application the Respondents beg to state that it is not tenable that 40 point Register in case of promotion has not been followed in toto as the first point is SC, 2nd and 3rd points are UR, 4th point is ST. While Shri P.C. Das was appointed direct to the post of Head Assistant in the year 1965 on merit basis as no eligible candidate was available in the feeder grade. In that case Shri Das though being a SC candidate did not consume the 1st point of Scheduled Caste for which 100 point roster was maintained being direct appointment as per the reservation policy framed by the Govt. of India. It is also stated that in case of direct recruitment which is made locally 100 point roster is to be maintained and as such on the lines Shri P.C. Das being a directly recruited candidate has found place in 100 point 'Reservation Roster'. Since the post of Head Assistant is to be filled by promotion according to Recruitment Rules 40 point roster is also to be maintained. Accordingly as advised by the office of the Registrar General, India, Head of the Department, vide their letter No.12/20-C/90-Ad.IV dated 7-10-91 and subsequently approved vide their letter No.12/20-C/90-Ad.IV dated 31-10-91(Copies enclosed) vide Annexure-6)

(Contd.)

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Laxminarayan Gokuldas

respondent, that is, this Directorate, is maintaining 40 point roster also under the circumstances in both the Rosters i.e. 100 point and 40 point. The name of ~~Shri~~ Shri P.C. Das appears on first point. The extract of both the rosters is presented (vide Annexure-7) to clarify the point. The first post was held by Shri H.R. Bhowmik (UR) on promotion and Shri P.R. Brahmachary (UR) who was promoted subsequent to the promotion of Shri Bhowmik to the post of Office Superintendent, since promoted to the post of Office Superintendent w.e.f. 23.10.96. Naturally, the post would be filled up by Scheduled Caste candidate when vacancy would arise consequent upon promotion of Shri P.R. Brahmachary to the post of Office Superintendent. Accordingly the roster also has been maintained in this Directorate. As per the Hon'ble Tribunal Judgement dated 2.12.94 in O.A. No.80/92 Shri A.B. Das -Vs- Govt. of India the case of Shri A.B. Das (Respondent No.5) would come under the zone of consideration to the post of Head Assistant by promotion when the vacancy in the grade would be available.

9) That with regard to the statements made in paragraph 6(g) of the application the Respondents beg to state that it is not true that the post of Head Assistant is fallen vacant as Shri P.R. Brahmachary has been promoted to the post of Office Superintendent in the resultant vacancy due to retirement of Shri H.R. Bhowmik, Office Superintendent in October, 1995. Shri Brahmachary's promotion was still in process at the level of the Registrar General, India at that time.

(Contd.)

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Lawrence Chakraborty

10) That with regard to the statements made in paragraph 6(h) of the application the Respondents beg to state that it is not true that the post of Head Assistant has fallen vacant due to promotion of Shri P.R. Brahmachary to the post of Office Superintendent by that time who was still working in the said post of Head Assistant.

11) That with regard to the statements made in paragraph 7 of the application regarding the grounds for reliefs under legal provision the Respondents beg to state that none of the grounds is maintainable in law as well as facts and as such the application is liable to be dismissed.

12) That with regard the statements made in paragraphs 8, 9 & 10 of the application the Respondents have no comments.

13) That with regard to the statements made in para 11 of the application regarding relief sought for the Respondents ~~is~~ beg to state that the applicant is not entitled to any relief sought for and the application is liable to be dismissed.

14) That regarding interim prayer the same is liable to be rejected in view of the facts and circumstances of the case narrated above.

(Contd.)

15) That the Respondents submit that the application has no merit and as such the same is liable to be dismissed.

Filed by
Chauhan
31/1/97

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Savirau Chakraborty

- Verification-

I, Shri Samiran Chakraborty, Investigator, Directorate of Census Operations, Tripura being competent do hereby solemnly declare that the statements made above are true to my knowledge, belief and information.

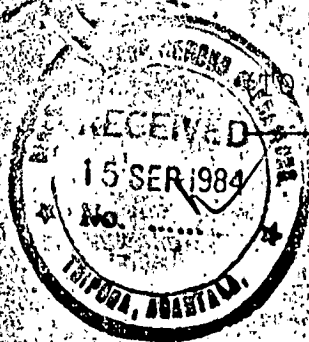
And I sign this Application today on 20 th day of January, 1997 at Agartala.

Samiran

Declarant.

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Annexure -1

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TO BE PUBLISHED IN THE GAZETTE OF INDIA PART-II SECTION 3-
SUB-SECTION(1))

No.4/41/82-Ad.I
Government of India
Ministry of Home Affairs
OFFICE OF THE REGISTRAR GENERAL, INDIA

2-A, Mansingh Road,
New Delhi.

Dated, the

N O T I F I C A T I O N 25 AUG 1984

G.S.R..... In exercise of the powers conferred by the proviso to article 309 of the Constitution and in supersession of the twenty-three recruitment rules mentioned in Appendix II to these rules in so far as they relate to the post of Head Assistant except as respects things done or omitted to be done before such supersession, the President hereby makes the following rules regulating the method of recruitment to the said posts of Head Assistant in the various offices of the Registrar General, India, the Language Division of the office of the Registrar General of India as well as all the offices of the Directors of Census Operations in the States and the Union territories namely :-

1. Short title and commencement :-(1) These rules may be called the office of the Registrar General, India, and the offices of the Directors of Census Operations in States and Union territories (Head Assistant) Recruitment Rules, 1984.

(2) They shall come into force on the date of their publication in the official Gazette.

2. Application :- These rules shall apply to the posts of Head Assistant in the Language Division of the Office of the Registrar General, India, located at Calcutta, and each of the offices of the Directors of Census Operations in the States and Union territories, separately, as specified in the Appendix I to these rules.

3. Number of posts, classification and scale of pay :-

The number of the said post, its classification, and the scale of pay attached thereto shall be as specified in columns 2 to 4 of the Schedule, annexed to these rules.

D. No. 1730/14-85
17-9-84

Offered
C. Leo
Gr 16 SC
21/2/87

4. Method of recruitment, age limit, educational and other qualifications, etc. :-

The method of recruitment, age limit, educational and other qualifications, and other matters relating to the said post shall be as specified in columns 5 to 14 of the Schedule aforesaid.

Provided that the appointing authority concerned may, if it considers necessary or expedient so to do, having regard to the circumstances of the case and for reasons to be recorded in writing, order any vacancy in the said posts in any of the offices to which these rules apply and in relation to which he is the appointing authority to be filled by the transfer of a person holding the same post in any of the other offices to which these rules apply, when the person to be transferred has made a request in writing for such transfer to the said appointing authority.

Provided further that the persons so transferred shall be placed below all persons already appointed on regular basis to the grade to which he is appointed on such transfer.

5. Disqualification :- No person, -

(a) who has entered into, or contracted, a marriage with a person having a spouse living, or

(b) who, having a spouse living, has entered into, or contracted, a marriage with any person,

shall be eligible for appointment to the said post :

Provided that the Central Government may, if satisfied that such marriage is permissible under the personal law applicable to such person and the other party to the marriage and there are other grounds for so doing, exempt any person from the operation of this rule.

6. Power to relax :- Where the Central Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any class or category of persons.

7. Saving :- Nothing in these rules shall affect reservations, relaxation of age limit, and other concessions required to be provided for the candidates belonging to Scheduled Castes, Scheduled Tribes, and other special categories of persons in accordance with the orders issued by the Central Government from time to time in this regard.

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THE SCHEDULE

Recruitment Rules for the post of Head Assistant in the Office of the Registrar General, India; Ministry of Home Affairs.

Name of post	Number of post	Classification	Scale of pay	Whether Selection post or non-selection post	Whether benefit of added years of service admissible under rules 30 of the CCS (Pension) Rules, 1972.	Age limit for direct recruits	Education and other qualifications required for direct recruits.
1	2	3	4	5	6	7	8
Head Assistant	31* Detailed break-up shown in Appendix I	General Central Service Group 'C' Non-Gazetted Ministerial	Rs. 550-20-650-25-750	Selection	No (Relaxable upto 35 years for Government servants in accordance with the instructions or orders issued by the Central Government)	30 years	<u>Essential</u> : (i) Degree of a recognised University or equivalent. (ii) 5 years' experience in administration establishment, and cash and accounts matters in a Government Office or a commercial firm of repute

*Subject to variation dependent on workload.

Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (other than Andaman & Nicobar Islands, and Lakshadweep). In respect of posts, the appointments to which are made through the Employment Exchanges, the crucial date for determining the age limit shall, in each case, be the last date upto which the Employment Exchanges are asked to submit names.

Okend
C. Sec. F. C. S. C.
2/12/97

whether age and qualification, whether direct recruitment or by promotion, grades, what is its composition. If a Departmental Promotion Committee exists, what is its composition. From which promotion, transfer, deputation, transfer, to be made. centage of the vacancies to be filled by various methods.

9	10	11	12	13
---	----	----	----	----

No 2 years By promotion, falling in the Promotion: Assistants Group 'C' Departmental Promotion Committee (for the Language Division at Calcutta):

1. Deputy Registrar General (Languages) or Assistant Registrar General (Languages) - Chairman
2. Assistant Registrar General (Languages) or Linguist or Research Officer (Languages) - Member

Officials of Central Government/State Government holding analogous posts or with 3 years regular service in posts in the scale of pay of Rs. 425-700 or equivalent and possessing the educational qualification and experience prescribed for direct recruits in column 8. (Period of deputation shall ordinarily not exceed 3 years).

3. A Group 'A' Officer of another Central Government Office, preferably belonging to the Scheduled Castes or the Scheduled Tribes - Member

*Transfer on deputation/Transfer :

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Service Commission is

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Circumstances in which Union Public
to be consulted in making
recruitment.

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Group 'C' Departmental Promotion Committee
(for the respective office of the
Directors of Census Operations in States/
Union territories) :

Not applicable

1. Director of Census Operations or Joint Director of Census Operations
or Deputy Director of Census Operations
or Assistant Director of Census
Operations or Assistant Director of
Census Operations (Technical) - Chairman
2. Joint Director of Census Operations
or Deputy Director of Census
Operations or Assistant Director of
Census Operations or Assistant Director
of Census Operations (Technical) - Member
3. A Group 'A' Officer of another Central
Government Office, preferably belonging
to the Scheduled Castes or the
Scheduled Tribes. - Member

To,

The Manager,
Government of India Press,
Mayapuri (Ring Road)
New Delhi.

(V.S. VERMA)
Registrar General, India

11 10 81 am 4

APPENDIX - I

Office-wise break-up of the number of posts
specified in Column 2 of the Schedule

<u>Sl.No.</u>	<u>Name of Office</u>	<u>No. of post</u>
1.	Office of the Registrar General, India (excluding Language Division at Calcutta)	-
2.	Language Division at Calcutta	1
3.	Office of the Director of Census Operations, Andhra Pradesh	1
4.	-do- , Assam	1
5.	-do- , Bihar	1
6.	-do- , Gujarat	1
7.	-do- , Haryana	1
8.	-do- , Himachal Pradesh	1
9.	-do- , Jammu & Kashmir	1
10.	-do- , Karnataka	1
11.	-do- , Kerala	1
12.	-do- , Madhya Pradesh	1
13.	-do- , Maharashtra	1
14.	-do- , Manipur	1
15.	-do- , Meghalaya	1
16.	-do- , Nagaland	1
17.	-do- , Orissa	1
18.	-do- , Punjab	1
19.	-do- , Rajasthan	1
20.	-do- , Sikkim	1
21.	-do- , Tamil Nadu	1
22.	-do- , Tripura	1
23.	-do- , Uttar Pradesh	1
24.	-do- , West Bengal	1
25.	-do- , Andaman & Nicobar Islands	1
26.	-do- , Arunachal Pradesh	1
27.	-do- , Chandigarh	1
28.	-do- , Delhi	1
29.	-do- , Goa, Daman & Diu and Dadra & Nagar Haveli	1
30.	-do- , Lakshadweep	1
31.	-do- , Mizoram	1
32.	-do- , Pondicherry	1
	T O T A L	31

Handwritten:
 C. J. S. S. C.
 21/2/97

Sl.No. Short title of the Recruitment Rules superseded by these rules.

1. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Andhra Pradesh, (Class III and Class IV posts) Recruitment Rules, 1973.
2. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Assam, (Class III & Class IV posts) Recruitment Rules, 1973.
3. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Bihar, (Class III & Class IV posts) Recruitment Rules, 1973.
4. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Gujarat, (Class III & Class IV posts) Recruitment Rules, 1973.
5. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Haryana, (Class III & Class IV posts) Recruitment Rules, 1973.
6. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Himachal Pradesh (Class III and Class IV posts) Recruitment Rules, 1973.
7. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Jammu & Kashmir (Class III and Class IV posts) Recruitment Rules, 1974.
8. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Karnataka (Class III & Class IV posts) Recruitment Rules, 1974.
9. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Kerala (Class III & Class IV posts) Recruitment Rules, 1973.
10. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Madhya Pradesh (Class III & Class IV posts), Recruitment Rules, 1973.
11. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Maharashtra (Class III & Class IV posts) Recruitment Rules, 1973.
12. Office of the Director of Census Operations, and ex-officio Superintendent of Census Operations, Meghalaya (Class III & Class IV posts) Recruitment Rules, 1973.

BY SPEED POST

Amexure 1-A
96

Telegram: "REGGENLIND"

Sl. No. 11/12/94-Ad.IV

भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक 2/A, Mansingh Road,
New Delhi, the 16th October, 1996

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ORDER

On the recommendation of the Departmental Promotion Committee, the Registrar General, India is pleased to appoint the following Head Assistant in the office of the Director of Census Operations, Tripura as Office Superintendent in the pay scale of Rs.1640-60-2600-EB-75-2900 by promotion in the same office in a temporary capacity with effect from 23.10.96 or the date of his taking charge of the post, whichever is later and until further orders:

1. Shri P.R. Brahmachary
2. He will be on probation for a period of two years.
3. He should exercise his option for pay fixation under FR 22 (a) (1) within one month from the date of promotion.

(K. VIVEKANAND)
DEPUTY DIRECTOR

New Delhi, the 16th Oct 96

No.11/1/96-Ad.IV
Copy to:

1. Director of Census Operations, Tripura, Agartala (with one spare copy for the individual concerned).
2. Pay & Accounts Officer (Census), MHA, AGCW&M Building New Delhi.
3. Records Assistant, RG's Office.
4. Order file.

(K. VIVEKANAND)
DEPUTY DIRECTOR

Officed
for
21/10/96

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(83)
Annexure-1-B
167

No.F.5(11-E)-CO/64
Government of India
Ministry of Home Affairs
Directorate of Census Operations,
Tripura.

Dated, Agartala, the 15th Nov.'96.

O R D E R

Shri Ajit Baran Das, Assistant is hereby appointed on promotion to the post of Head Assistant on a purely temporary and ad-hoc basis in the Directorate of Census Operations, Tripura in the scale of Rs.1600-50-2300-EB-60-2660/- w.e.f. the date of issue of this order or the joining date of the incumbent till 28.2.97 or till further order whichever is earlier.

The order issues as per the interim order in O.A.No.261/95 - Shri H.P. Roy Vs. Union of India & Others dated 8.1.96 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench. The promotion so given is subject to the final verdict of the Hon'ble Court in the O.A.No.261/95 as above.

The above ad-hoc promotion to the grade of Head Assistant shall not bestow upon the official any claim for regular promotion to the grade and services rendered by him on ad-hoc basis shall not count for the purpose of seniority in the grade nor for eligibility for promotion to the next higher grade unless the final verdict of the Hon'ble Court in O.A.No.261/95 directs so.

His pay will be fixed as per normal rules.

Baranwal
15/11/96
(J.P. BARANWAL)
ASSISTANT DIRECTOR

Copy for information and necessary action to the followings :-

1. Shri Ajit Baran Das, Assistant, Directorate of Census Operations, Tripura.
2. The Accounts Section/Personal file/Guard file.
3. Shri K. Vivekanand, Deputy Director, Office of the Registrar General, India, 2/A, Mansingh Road, New Delhi-110 011 with reference to his letter No.27/55/95-Ad.IV dated 17/25.5.96.
4. The Pay & Accounts Officer(Census), Ministry of Home Affairs, A.G.C.R.W & M Building, New Delhi-110 002.
5. Shri Md. Saikat Ali, M.A., I.L.B., Central Government Standing Counsel, Islampur, Islampur Road, Dist.- Kamrup, Guwahati-781007 with reference to O.A.No.261/95 - Shri H.P. Roy Vs. Union of India & Others.

Baranwal
15/11/96
(J.P. BARANWAL)
ASSISTANT DIRECTOR

Offend
File
S.C.S.C
2/2/97

O/c
15/11/96

Department of Personnel & A.R. O.M. No. 1/9/74-Estt.(SCT), dated 29th April, 1975 to all Ministries etc.

Subject:—Reservation for Scheduled Castes and Scheduled Tribes in services—Single vacancy arising in a recruitment year.

Attention of the Ministry of Finance, etc. is invited to Ministry of Home Affairs O.M. No. 2/24/63-Estt.(D), dated the 4th December, 1963 read with O.M. No. 1/4/64-SCT(1), dated 2nd September, 1964, which provide *inter alia* that, if there be only one vacancy in any recruitment year, it should be treated as unreserved, irrespective of its falling at a reserved point. (This provision results in a situation whereby in small cadres, where recruitment is occasional and generally not more than one vacancy arises at a time, the Scheduled Castes and Scheduled Tribes are unable to get any benefit out of the orders providing reservations for them.)

2. The matter has been considered in the light of the judgement of the Supreme Court dated the 11th October, 1973 in the case of Areti Ray Choudhury vs. Union of India (Railway Ministry) and others, and it has now been decided that in partial modification of the O.M., dated 4th December, 1963, and 2nd September, 1964, referred to in para 1 above, while in cases where only one vacancy occurs in the initial recruitment year and the corresponding roster point happens to be for a Scheduled Caste or Scheduled Tribe, it should be treated as unreserved and filled accordingly and the reservation carried forward to subsequent three recruitment years as hitherto, in the subsequent year(s), even if there is only one vacancy, it should be treated as "Reserved" against the carried-forward reservation from the initial recruitment year and a Scheduled Caste/Scheduled Tribe candidate, if available, should be appointed in that vacancy, although it may happen to be the only vacancy in that recruitment year(s). For instance, if a single vacancy arises in the initial recruitment year 1975, and it falls at a reserved point in the roster, it will be treated as 'unreserved' and filled accordingly in that year but the reservation would be carried forward to subsequent recruitment year(s). In the first subsequent year, i.e., 1976, if, again, a single vacancy occurs, then it should be treated as reserved against the reservation carried forward from 1975, and a Scheduled Caste/Scheduled Tribe candidate, as the case may be, should be appointed against that vacancy, in spite of the fact that the vacancy happens to be the only vacancy in that recruitment year. In the event of a Scheduled Caste/Scheduled Tribe candidate not being available to fill the reserved vacancy in 1976, the reservation would be further carried forward to 1977 and 1978, when also a single vacancy, if any, arising in those years should be treated as "reserved" against the carried-forward reservation, whereafter, the reservation will lapse.

3. In this Department's O.M. No. 16/5/74-Estt.(SCT), dated 11-6-1974, it was clarified that a recruitment year during which only a single vacancy arises and hence gets treated as unreserved need not be counted as an effective year towards the period for which the reserved vacancy is to be carried forward. Since a single vacancy arising in a year will now also be treated as reserved in the manner indicated in para 2 above, the orders contained in this Department's O.M., dated 11-6-1974 are hereby cancelled. The year in which no vacancy arises will, however, continue to be ignored, as at present, for purposes of counting the effective years towards the period of carry-forward.

4. In this Department's O.M. No. 10/37/74-Estt.(SCT), dated 3rd February, 1975, it has been clarified that, although in the case of promotions by selection from Class III to Class II, within Class II and from Class II to the lowest rung or category in Class I there is no carry-forward of reservation from year to year, when a vacancy falling on a reserved point in the roster is treated as unreserved due to its being the only vacancy during the year of promotion, the reservation so due against the reserved point should be carried forward to the subsequent three recruitment years. These orders would continue to apply to the promotions to the posts mentioned therein, and in conjunction with the instructions contained in para 2 of this O.M. the single vacancy occurring in the year, subsequent to the initial year of recruitment should be treated as reserved even though it may be a single vacancy in that year. In other words, the reservation carried-forward on account of there being only one vacancy during the initial year of promotion, should be adjusted by treating the vacancy arising in the subsequent year(s) as reserved, even though there might be only a single vacancy in that subsequent year(s).

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C. Sale- G.C.S.S.C
21/2/97

79 5. The note below the roster in Annexure 1 and note (2) below the roster in Annexure II to Ministry of Home Affairs O.M. No. 1/11/69-Estt.(SCT), dated 22-4-70 and note (1) below the roster prescribed in Department of Personnel and Administrative Reforms O.M. No. 1/3/72-Estt.(SCT), dated 12-3-1973 may be amended as follows:—

"If there are only two vacancies to be filled in a particular year, not more than one may be treated as reserved. If there be only one vacancy in a particular year which falls on a reserved point in the roster, it will be treated as unreserved in the first instance and filled accordingly but the reservation should be carried forward to subsequent year(s). In the subsequent year(s) of recruitment, the reservation should be applied by treating the vacancy arising in that year as reserved even though there might be only a single vacancy in that subsequent year(s)."

6. The instructions contained in this O.M. relate only to the reservations and "carry-forward" in respect of a single vacancy. In cases other than those relating to a single vacancy, instructions relating to reservation and "carry-forward" as contained in MHA OMs, dated 4-12-1963 and 2-9-1964 read with O.M. No. 27/25/68-Estt.(SCT), dated 25-3-1970 and O.M. No. 1/4/70-Estt.(SCT), dated 11-11-1971 will continue to apply.

7. Ministry of Finance etc. are requested to bring the above instructions to the notice of all the concerned authorities under their control.

Ministry of Home Affairs letter No. U. 13019/1/75-AP dated 28-9-1977 to the Chief Secretaries to the Government of Arunachal Pradesh and Mizoram.

Taluk in appointments made by

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Annex-11A

**CENTRAL ADMINISTRATIVE TRIBUNAL
GURUHATI**

(Agartala Circuit Bench)

O.A. No. 80992

Date of Order : 2-12-1994

Shri Ajit Baran Das - Applicant.

-Vs-

Union of India & Ors. - Respondents.

For the applicant : Mr. S. Chakraborty, Advocate and also
applicant appeared in person.

For the Respondents: Mr. G. Sarma, Addl. C.S.J.C.

C O R A M

JUSTICE SHRI M.S. CHOUDHARI, VICE-CHAIRMAN
SHRI G.L. SANGLYINE, MEMBER (ADMINISTRATIVE)

O R D E R

For the reasons separately recorded we pass the
following order :

We direct the respondents that the reservation point
for Scheduled Caste be carried forward to the ensuing
effective recruitment year and since the applicant will
by that time actually complete 5 years of service as
Assistant, we further direct the respondents to consider
the appointment of the applicant by promotion to the post
of Head Assistant in the next vacancy that may arise
hereinafter.

We make it clear that the applicant had stated before
us that on promotion if given to him in the next vacancy he
will not claim seniority over respondent No.4 Sri P.R.
Brahmachari nor will object to his further promotion. It is
also recorded that the applicant as well as Sri Bhoywick

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and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Shri Bhownick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

The application is partly allowed in terms of the above order. There will be no order as to costs.

(Detailed reasons will follow)

Sd/- M.G. CHAUDHARI
VICE-CHAIRMAN

Sd/- G.L. SANGLYINE
MEMBER (ADMIN)

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CENTRAL ADMINISTRATIVE TRIBUNEL
GUWAHATI BENCH

Original Application No.80 of 1992

Date of Order : This the 2nd day of December 1994

(At. Agartala)

Justice Shri M.G. Chaudhari, Vice-Chairman
Shri G.L. Sanglyine, Member (Administrative)

Sri Ajit Baran Das, son of Sri Ananda Charan
Das of Shibnagar College Road Extension,
P.O. Agartala College, Agartala, Tripura. - Applicant

-Vs-

1. The Union of India represented by
Secretary to the Govt. of India, Ministry
of Home Affairs, New Delhi.
2. The Registrar General & Census Commissioner,
Govt. of India, Kotah House Annexo, 2/A,
Mansingh Road, New Delhi-110 011.
3. The Director of Census Operation, Tripura,
14/1, Krishnanagar, P.O. Agartala.
4. Shri Pracheta Ranjan Brahmachary, Head Asstt.
Directorate of Census Operation, Tripura, 14/1
Krishnanagar, P.O. Agartala - Respondents

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

ORDER (Reasons in support of operative
order pronounced on 2-12-94)

C.L. SANGLYINE (MEMBER, A)

This application under Section 19 of the
Administrative Tribunals Act 1985 has been submitted by
Shri Ajit Baran Das, now working as Assistant in the office
of the Director of Census Operation, Tripura, Agartala.
In this application he has impugned the Order No.
F.5(11-E)-80/64 dated 28-2-1992 (Annexure-II) promoting

Contd...2/-

Shri Pracheta Ranjan Brahmachary to the post of Head Assistant in the above mentioned office. The case of the applicant is that the vacancy against which Shri Brahmachary was promoted was erroneously treated as an unreserved vacancy and this action of the respondents had deprived him, a member of scheduled caste community, from being promoted to the post of Head Asstt. His main prayer is that he should be promoted as Head Asstt. immediately against a reserved vacancy. The respondents have contested the application by filing written statements. Their contention is that the claim of the applicant that the vacancy should have been treated as a reserved vacancy for scheduled caste is wrong. According to them the First point in the 40 point Roster belongs to Scheduled Caste and this point was consumed by Shri P.C. Das on his appointment as Head Assistant.

Shri P.C. Das is a member of scheduled caste community and had filled the post on his own merit when he was appointed to the post. The respondents contend that this being a single vacancy "it need not be treated as unreserved and the reservation should not be carried forward". Moreover, the applicant was appointed to the post of Assistant by transfer on 23-6-1990 and, as such, had not possessed the necessary experience of 3 (three years as Assistant on 28-2-1992 and therefore had not qualified for promotion to the post of Head Assistant.

2. We have examined carefully the contentions of both sides. While noticing that the merit of the later contention of the respondents is open to debate, we have no hesitation to hold the view that on the basis of the facts of this

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case the contention of the respondents regarding the issue of reservation is untenable. In 1964, after the Office of director of Census Operation, Tripura, Agartala was created an advertisement was issued for filling up the post of Head Asstt. in that office by direct recruitment through a limited open field. There was no Recruitment Rules for Head Asstt. at that time. Sri P.C. Das, a member of scheduled caste community, successfully competed and was on his own merit appointed to the said post of Head Asstt. on 26-4-1968 and he joined the post. He was promoted to a higher post of office Superintendent in 1979. The Recruitment Rules for Head Asstt. came into force with effect from 25-8-1984. On 2-3-1985 Sri H.R. Bhowmick was promoted as Head Assistant on regular basis. Prior to this promotion Shri Bhowmick was officiating in the post on adhoc basis. Shri Bhowmick is not a member of scheduled caste community. On 28-8-1990 Sri Bhowmick was promoted to the higher post of Office Supdt. The Recruitment Rules for Asstt./Head Clerk came into force w.e.f. 23-6-1990. The applicant was appointed as Asstt. with effect from that date. From 28-8-1990 to 28-2-1992 the post of Head Assistant remained vacant according to the applicant. This has not been disputed by the respondent Sri P.R. Brahmachary was promoted to the post of Head Asstt. on 28-2-1992. Shri Brahmachary is not a member of scheduled caste community. Apparently, the applicant was not considered for promotion on the ground that in February, 1992 he did not possess the requisite qualifications and that, at any rate, even if he was considered and found fit he could not be promoted as there was no vacancy reserved for

Contd... 1/-

for scheduled caste. In that event the promotion was given to Shri Brahmachary who is a general candidate and senior to the applicant and also eligible for the post. We find that there was a gap of about 6 years from 1979 when Shri P.C. Das vacated the post of Head Asstt. to 1985 when Shri H.R. Bhowmick was promoted to the post of Head Assistant. The respondents did not care to clarify in their written statements as to what happened to the post of Head Asstt. during that period. We have therefore sought clarification about this matter during the course of hearing and Shri H.R. Bhowmick Office Supdt. verbally explains to us that the vacancy was filled up by means of deputation before he took over the post. We presume that the clarification given by Shri Bhowmick is correct. As would be seen from the facts narrated above, Shri P.C. Das was recruited to the post of Head Asstt. against Direct Recruitment Roster. Even if the Roster for Direct Recruitment is taken to be the same with the Roster for promotion, as that would seem to be the contention of the Respondents, that Roster had broken because of the fact that for almost six years from 1979 to 1985 the vacancy in the post of Head Assistant had been filled by Deputation. However, in the facts of this case, in our view the promotional Roster started with reference to the vacancy in the post of Head Assistant against which Shri H.R. Bhowmick was promoted. The first point in the Roster belongs to Scheduled Caste but since it was a single vacancy it ceased to be a reserved vacancy. It was filled by Shri Bhowmick who is not a reserved candidate and was otherwise eligible for promotion to the post. This is the correct procedure and even he

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applicant has no objection to it. The reservation was there-
after to be carried over to the next effective recruitment
year. This was not however done and Shri Brahmachary was
promoted to the post of Head Asstt. in 1992 against an
unreserved vacancy. In our opinion the reservation for
scheduled caste in this case should have been carried
forward to 1992 and since, according to the respondents, no
eligible scheduled caste candidate was available even
then the reservation was to be carried forward further to
the next effective recruitment year to be filled by an eligible
member of scheduled caste community, if any. This would be
in keeping with the instructions issued by the Govt. of India.
We are informed verbally that the next vacancy will arise
in 1993.

3. The Recruitment Rules for Head Assistant came into
force with effect from 25-8-1984. The qualification for
promotion to the post of Head Asstt. is that a person
should have worked as Assistant in the respective Office
with 3 years' regular service in the grade of Rs.425-700/-
(Pre-revised) For Direct recruitment to the post, a
University Degree with a 5 years experience as prescribed
in column 8 of the schedule to the Rules are required. For
appointment by Transfer the requisite qualifications are
holding an analogous post to Assistant or with 3 years
regular service in the grade of Rs.425/- - 700/- (Pre-revised)
or equivalent and all the qualifications and experience
required for direct recruitment above. The amended recruit-
ment Rules for Assistant/Head Clerk came into force with

with effect from 23-6-1990. The qualification for promotion to the post of Upper Division Clerk with 5 years regular service in the grade 1200-2040/- The qualification for appointment by transfer is holding an analogous post to Upper Division Clerk or with 5 years regular service in the scale of pay of Rs.1200-2080/- and possessing the qualifications required in respect of direct recruitment to the post, namely a University Degree and 3 years experience as prescribed in column 8 of the schedule to the rules. The applicant was an Accountant in the scale of Rs.425-640/- (Pre-revised). With effect from 1-1-1986 the pay scales of Accountants and Assistants became same, namely Rs.1400-2300/- There was a proposal to amend the Recruitment Rules of Assistant so as to provide for appointment of regularly appointed Accountants to the posts of Assistant by transfer at the initial constitution. The proposal culminated in the aforesaid amended rules and a Note to the effect was appropriately inserted against column 11 of the relevant Schedule to the recruitment rules. This note reads :

"The regularly appointed Accountants in the scale of pay of Rs.425-640/- (Pre-revised) shall be deemed to have been appointed by transfer as Asstts. in the scale of pay of Rs.1400-2300 (Revised) on regular basis in the respective offices at the initial constitution".

We have stated hereinabove that the question whether the applicant was qualified for promotion to the post of Head Assistant as in February, 1992 was debatable. This is so because in the 'Note' above it has been stated that the regularly appointed Accountants shall be deemed to have been appointed by transfer as Assistants on regular basis

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at the initial constitution. The date of this initial constitution is not clear. It could perhaps date back to 1-1-1986 as contended by the applicant. The applicant was appointed as Assistant by ~~the~~ transfer. The qualifications for appointment by promotion to the post of Head Asstt. are set out already above. It is not clear from the Recruitment Rules for Head Assistants whether the 'deemed' appointment of such Accountants under the 'Note' aforesaid would meet the requirements of eligibility prescribed under the rules. If it does and if the initial constitution dates back to 1-1-1986, the applicant had the requisite qualifications in 1992. The respondents, on the other hand, contend that the applicant was to be taken into consideration only with effect from 23-6-1990 on which date the Recruitment Rules for Assistant came into force and from which date the post of Accountant stood abolished. According to them it was with effect from that date only that the Accountants were deemed to have been appointed as Assistants. However, we are not inclined to read anything into the stipulations mentioned in the Schedule to the Recruitment Rules for Head Assistant in regard to promotion to that post apart from what is explicitly provided therein, namely -

"Promotion : Assistants in the respective Offices with 3 years regular service in the grade (Rs.425-15-500-EB-15-560-20-700)".

This scale is now equivalent to the scale of pay of Rs.1400-2300/-.

4. For the reasons recorded above we pass the following order :

We direct the respondents that the reservation point for Schedule Caste be carried forward to the ensuing effective recruitment year and since the applicant will by that time actually complete 5 years of service as Assistant we further direct the respondents to consider the appointment of the applicant by promotion to the post of Head Assistant in the next vacancy that may arise hereinafter.

5. We make it clear that the applicant has stated before us that on promotion if given to him in the next vacancy he will not claim seniority over respondent No.4 Sri P.R. Brahmachary nor will object to his further promotion. It is also recorded that the applicant as well as Sri Bhowmick and Sri Brahmachary were present before us and stated that the post is likely to fall vacant in October, 1995 on retirement of Sri Bhowmick when Sri Brahmachary is likely to be promoted. We therefore make it clear that unless a vacancy arises earlier in any event the applicant shall be considered for appointment to the post in October, 1995 when the vacancy will arise.

6. The application is partly allowed in terms of the above order. There will be no order as to costs.

(Operative Order in terms of paras 4,5 and 6 pronounced on 2-12-94)

Sd/- M.G. Chaudhari
Vice-Chairman

Sd/- G.L. Sanglyine
Member (Admn.)

"जनगणना"
"REGGENLIND"

सं./No.12/20-C/84-Ad.I

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक

New Delhi, the 2/A, Mansingh Road,

22 JAN 1986

To

The Assistant Director,
Director of Census Operations,
Tripura,
AGARTALA

Subject:- Regularisation of one Shri Haripada Roy in the post of Assistant.

Sir,

I am directed to refer to your letter No.A.23020/1/81-Estt.(Part) dated 14-1-1986 on the above mentioned subject and invite to draw your attention to this office letter of even number dated 20-5-1985. It is clear that the post of Assistant is a temporary post sanctioned for 1981 Census upto 28-2-1986.

The question of filling up the post of Assistant on regular basis will therefore, arise only after this post is continued on long term basis. Shri Haripada Roy, Assistant may be informed accordingly. No further representation on this point from Shri Haripada Roy may be entertained.

Yours faithfully,

(H.C. SACHDEVA)
Assistant Director

SM

9/10/86 -
C. Lal - Sr. C6SC
21/2/87

Eno. 2938/85-86
dt. 27.1.86

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Annexure-5 96

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तार जनसंख्या
 Telegram EGGENLIND

सं./No. 12/20-C/84-Ad.I

भारत सरकार

GOVERNMENT OF INDIA

गृह मंत्रालय

MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय

OFFICE OF THE REGISTRAR GENERAL, INDIA

नई दिल्ली, दिनांक 2-A, Man Singh Road,

New Delhi, the

20 MAY 1985

To

The Deputy Director
 of Census Operations,
 Tripura,
Agartala.

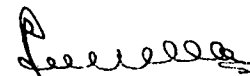
Sub: Regularisation of one Shri Haripada Roy
 in the post of Assistant in this
 Directorate.

...

Sir,

I am directed to refer to your letter No. A.23020/1/81-Estt.(Part) dated 9th May, 1985 on the above subject and to say that since the posts of Assistants have been created for 1981 Census and are presently sanctioned up to 31st August, 1985, the same should not be filled up on long term basis by making regular appointment of Shri Haripada Roy. There is also no question of appointment of Shri A.B.Das as Assistant on regular basis since he has not put in the minimum service required for promotion to the grade of Assistant. The question of filling up the post of Assistant on regular basis will therefore arise only after these posts are continued on long term basis.

Yours faithfully,



(R.C.SACHDEVA)
 Assistant Director

S.Gopalan

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 18-58/2611-201C

No action
 this may be filled
 at present.
 27-7-85

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Annexure-6

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जनगणना
Telegram : "REGGENLIND"

सं०/No.12/20.C/90.ADIV

भारत सरकार
GOVERNMENT OF INDIA

गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIH MANTRALAYA

भारत के महा रजिस्ट्रार का कार्यालय
OFFICE OF THE REGISTRAR GENERAL, INDIA



नई दिल्ली, दिनांक 2/A, Mansingh Road,
New Delhi, the

31.10.91

To

The Director of Census Operations,
Tripura,
Agartala.

Sub:

Inspection of Roaster for SC/ST in service (For
the post of Head Assistant.

Sir,

I have the honour to refer to your letter No. A.14011/1/90.Estt. dated.15.10.1991 on the above mentioned subject and to state that the roaster prepared by you for the post of Head Assistant is in order. Since the point No.3 in the roaster is meant for U.R. category this may be filled up by the Senior most Assistant in accordance with the provisions of the Recruitment Rules after placing the proposal before the Departmental Promotion Committee.

Yours faithfully,

Shiv Bhagwan
(Shiv Bhagwan)
Assistant Director.

Okard
C. Sel.
Sr. C. S. C.
21/2/92

VACANCIES RESERVED FOR SCHEDULED CASTES & SCHEDULED TRIBES
IN RESPECT OF THE DIRECTORATE OF CENSUS OPERATIONS, TRIPURA

28 29 40 Point Roster

28 (98)
119

Reservation B.F. from previous year		Particulars of recruitment made				Date annou- cement
Schedules Castes	Scheduled Tribes	Recruitment year	Cycle No. and point No.	Unreserved or reserved for Scheduled Castes/Schedules Tribes according to the roster applicable	Name of person appointed.	
1	2	3	4	5	6(a)	6(b)

Annexure-7

4/

HEAD ASSISTANT

1.	-	1965	1/1	SC	P. C. Das	10.5.65
2.	-	1985	1/2	UR	H. R. Bhattacharya	1.3.85
3.	-	1992	1/3	UR	P. R. Bhattacharya	28.2.92
			1/4	ST		

15.12.92

H. C. DATTA
Deputy Director of Census
Operations, Tripura, Agartala

Officer
In-charge

for CGSC
21/2/97

VACANCIES RESERVED FOR SCHEDULED CASTES & SCHEDULED TRIBES
IN RESPECT OF THE DIRECTORATE OF GEN. OPERATIONS, TRIPURA

Reservation B.F. from previous year		Particulars of recruitment made				
Schedules Castes	Scheduled Tribes	Recruitment year	Cycle No. and point No.	Unreserved or reserved for Scheduled Castes/Schedules Tribes according to the roster applicable	Name of person appointed.	Date of appoint- ment
1	2	3	4	5	6(a)	6(b)

41

HEAD ASSISTANT

1.	-	1965	1/1	SC	P. C. Das	10.5.65
2.	-	1985	1/2	UR	H. R. Das	1.8.85
3.	-	1992	1/3	UR	P. R. Bandyopadhyay	28.2.92
			1/4	ST		

15-12-92

H. C. DAS
Deputy Director of Gen. Operations, Tripura, Agartala.

29-30

29

69

40 point Roster

Annexure-7

Whether he/She is SC/ST if not say Neither	Reservation carried forward		Signature of appointing authority or other authorised officer	REMARKS
	Schedule Castes	Scheduled Tribes		
7	8	9	10	29 39

Remarks

Roster prepared as per Rg's letter NO. 12/20-C/90-Ad. Tr dated 7.10.91 and it has got the approval of Rg. vide letter NO. 12/20-C/90-Ad. Tr dated 31.10.91.

Self-

8.11.91

Deputy Director of Census Operations, Tripura

15-12-92
 Deputy Director of Census Operations, Tripura

H. K. Das

C. K. Das

21/2/92

Sl. no. 1. (Mr P. C. Das) was appointed clerically and Sl. no. 2 & 3. (Mr H. R. Bhattacharya and Mr P. R. Bhattacharya) were appointed by promotion from the feeder grade to the post (M. C. Datta)

30-31-30

100 Point Roster

VACANCIES RESERVED FOR SCHEDULED CASTES & SCHEDULED TRIBES IN RESPECT OF THE DIRECTORATE OF CENSUS OPERATIONS, TRIPURA

Reservation B.F. from previous year		Particulars of recruitment made				
Schedules Castes	Scheduled Tribes	Recruitment year	Cycle No. and point No.	Unreserved or reserved for Scheduled Castes/Scheduled Tribes according to the roster applicable	Name of person appointed.	Date of appointment
1	2	3	4	5	6(a)	6(b)

Annexure - 7

4 Head Assistant

1	2	3	4	5	6(a)	6(b)
		1959 to 1964	-	-	-	-
		1965	-	-	-	-
		1965	1/1	S.T.	Shri P.C. Das	10.5.65
	1 (1965)	1966	-	-	-	-
	1	1967	-	-	-	-
	1	1968	-	-	-	-
	1	1969	-	-	-	-
	1	1970	-	-	-	-
	1	1971	-	-	-	-
	1	1972	-	-	-	-
	1	1973	-	-	-	-
	1	1974	-	-	-	-
	1 (1965)	1975	-	-	-	-

As the post of Head Assistant has got feeder post for promotion to this grade, henceforth this post need not find place in the Direct recruitment register and prepared roster point of 40 point (for promotion) in the light of instruction of Government vide your letter no. 12/20 (M.C. Datta) dated 12/90. As per IV date

Deputy Director of Census

Tripura Agartala

12/90

Annexure-7

100 Point Roster

101

Whether he/she is SC/ST if not say Neither	Reservation carried forward		Signature of appointing authority or other authorised officer	REMARKS
	Schedule Castes	Scheduled Tribes		
7	8	9	10	11

5

7	8	9	10	11
-	-	-		
-	-	-		
S.C.	-	1		
-	-	1	Seen Sd/- Sham Jishi 25.3.88 Dy Director of LO (SC/ST) Office of R & S at Imphal	
-	-	1		
-	-	1		
-	-	1	Sd/- P.D. Jishi 25.3.88	
-	-	1		
-	-	1		
-	-	1		
-	-	1		
-	-	1		
-	-	1		
-	-	1 (1965)		

Post of H.A. is know filled
by promotion as per R/R dt
22.12.73.

Sd/-
J.C. Bhuyan 12/1/76
Assistant Director of
census operations Tripura

Sd/-
P. D. Jishi
22.3.88
Deputy Director of census
operations, Tripura, Agartala.

Officer
Sd/- C. S. C.
21/2/92