

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)
22.6.98
for default

INDEX

O.A/T.A No. 130/96.....

R.A/C.P No.....

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SECTION OFFICER (Judl.)

Salil
29.10.08

MP No. (DA)
RA No. (DA)
CP No. (DA)

Smt. Achu - ce

APPLICANT(S)

VERSUS

Citizen of India - co

RESPONDENT(S)

Mr. B.C. Das, N.K. Das .. Advocate for the applicant.

Mr. S. Ali, Sr.C.G.S.C .. Advocate for the Respondents.

Office Notes

Date

Court's Orders

This application is in
form and within time

C. F. of Rs. 50/-
deposited vide

IPO/RD No 346.20/
Dated 27/6/96

7.8.96

Mr B.C. Das for the applicant.

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

Heard Mr Das for admission.

Application is admitted. Issue
notice on the respondents by
registered post.

List for written statement
and further orders on 16.9.96.

Respondents are directed not
to disturb the service of the
applicant until further orders.

12.9.96

Notice issued to the
concerned parties vide
No. 3122 Dt. 12.9.96

60
Member

pg

For

16-9-96

None for the respondents.

Written statement has not been
submitted.

List for written statement
and further order on 4-10-96.

lm

Member

PM
16/9

4.10.96

Mr. S.Ali, Sr. C.G.S.C. seeks time to file the written statement.

24.10.96

Notice duly served
on respondent No. 2.

List for written statement and further order on 15.11.1996.

6a
Member

trd
M/10

15.11.96

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

List on 6.12.96 for written statement and further orders.

6a
Member

pg
M/11

6.12.96

Mr. Ali, Sr.C.G.S.C. for the respondents has submitted written statement today. Let copy of the same be served on the counsel of the applicant. Case ready for hearing.

List for hearing on 31.12.96.

6a
Member

trd

M
6/12

12 - 12 SC

24.4.97

Let the case be listed for hearing on 29.5.97.

6a
MemberSB
Vice-Chairman28.5.97

pg

dr

25/A

1) NO rejoinder submitted.
2) Memo of appearance
not yet filed.

M/28/5

(3)

22nd.

19.5.97 List for hearing before the Kohima circuit Bench of this Tribunal during the next sitting of this Bench at Kohima.

5-6-97

Memo of appearance not yet filed.

5/6

60
Member

JL
Vice-Chairman

pg

4
30/5

9.6.97 There is no representation on behalf of the applicant. Mr. S. Ali, Sr. C.G.S.C. is present. The case is dismissed for default.

60
Member

JL
Vice-Chairman

3.7.97
Copy of order has been sent to the D/sec. for ensuring the same to the L/S of the parties.

46

trd

28.7.97

In view of the order passed in Misc. Petition No. 206/97 the original application is restored to file and is fixed for hearing on 21.8.97.

60
Member

JL
Vice-Chairman

nkm

4
30/7

21.8.97 Mr. S. Ali, Sr. C.G.S.C. is in bereavement. Adjourned to 21.9.97
By order.

7-11-97
① written statement has been filed.

② No. Memo of appearance has been filed. 10.11.97 Adjourned to 9.1.98.

By order.

Y The case is ready for hearing as regards W/S. 11.11.98 List on 1-4-98 my order

1-4-98.

Case is ready for hearing,
List for hearing on 16-7-98.

The case is ready
for hearing as
regards Service & Wks.

Member

Vice-Chairman

lm
ns
2/7

6.7.98

Mr A.K. Choudhury, learned Add C.G.S.C. has made a mention that Mr Ali, learned Sr. C.G.S.C., who is charge of this case, is indisposed and therefore unable to attend court today. Accordingly the case is adjourned till 18.8.98.

Member

Vice-Chairman

nkm

lm
ns
2/7

18.8.98

On the prayer of Mr. S.Ali, learned Sr. C.G.S.C. this case is adjourned till 1.9.98.

List on 1.9.98.

Member

Vice-Chairman

trd

lm
ns
2/7

1-9-98

On the prayer of counsel for the parties case is adjourned till 3-9-98 for hearing.

List on 3-9-98, for hearing.

Member

Vice-Chairman

lm

ns
2/7

w/c and affidavit
also sum filed.

3.9.98 There is no Division Bench.
Adjourn to 21.9.98.

By me,

18/9

Notes of the Registry	Date	Order of the Tribunal
Affidavit & W/C has been filed. 16/10	21.9.98 pg 21/9/98	Division Bench is not available. List on 20.10.98 for hearing. Member
<u>1-12-98</u> As per order dt. 20.10.98 no records have been produced so far by Mr. S. Ali, Sr. C.G.S.C. Therefore, the case has been placed before the Hon'ble Court in the necessary orders. 1.12.98	20.10.98 trd	Heard both counsel for the parties. Hearing concluded. Mr. Ali, learned Sr. C.G.S.C. is directed to produce the relevant records and the judgement will be delivered only on receipt of the necessary records. Member
	2.12.98	Present : Hon'ble Justice Shri D.N. Baruah, Vice-Chairman and Hon'ble Sri G.L. Sanglyine, Administrative Member. Records have not yet been produced. The matter has already been heard but for want of records judgment could not be pronounced. Mr S.Ali, learned Sr.C.G. is unable to produce the records. List on 8.12.98 for production of records.
<u>28-12-98</u> Affidavit & Written Statement has been filed. 28/12/98 No records have been filed. 29/12/98	8.12.98 pg 28/12/98	Mr. A.K. Choudhury, learned Addl. C.G.S.C. prays for adjournment on behalf of Mr. S.Ali, learned Sr. C.G.S.C. who met an accident. Prayer allowed. Mr. B.K. Sharma has no objection. List it on 29.12.98. Member

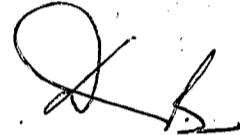
(6)

O.A.No.130/96

Notes of the Registry

Date

Order of the Tribunal

<p><u>12-1-99</u> Written statement and Affidavit has been filed.</p> <p>SK/1199</p>	<p>29.12.98 30/12/98</p>	<p>Records have not been produced respondents shall produce the records within two weeks from today. Fix it on 13.1.1999 for production of records.</p> <p>Member</p>	<p>Vice-Chairman</p> <p></p>
		<p>60 nkm</p>	
<p><u>18-1-99</u> Written statement and Affidavit has been filed.</p> <p>SK/1199</p>	<p>13.1.99</p>	<p>The respondents have produced the records. Let this case be listed for orders on 19.1.99.</p> <p>Member</p>	<p>Vice-Chairman</p> <p></p>
		<p>60 nkm</p>	
	<p>20.1.99</p>	<p>Records have been produced. Mr A. Deb Roy, learned Sr. C.G.S.C. prays for a short adjournment as he has taken over the charge of this case only recently and he has yet to get some papers. Accordingly the case is adjourned till 27.1.99.</p> <p>Member</p>	<p>Vice-Chairman</p> <p></p>
		<p>60 nkm</p>	

Notes of the Registry	Date	Order of the Tribunal
	27.1.99	<p>Records have been produced. After submission of the records it appears to us that further hearing is necessary. However, the counsel for the applicant is not present today.</p> <p>List on 8.2.99 for hearing.</p> <p><i>[Signature]</i> Member</p>
	pg	
	<i>SAB 28/1/99</i>	
	8.2.99	<p><i>Parasover</i></p> <p><i>By order</i></p>
<u>23.2.99</u> <i>copies of the judgment have been sent to the D/Secy. for issuing the same to the parties through Regd. m/s A.P.O. etc</i>	9.2.99	<p>Heard counsel for the parties.</p> <p>Hearing concluded. Judgment delivered in open Court, kept in separate sheets.</p> <p>The application is disposed of in terms of the order. No order as to costs.</p> <p><i>[Signature]</i> Member</p>
	pg	

Notes of the Registry	Date	Order of the Tribunal

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

O.A.NO. 130 of 1996 and 131 of 1996.

DATE OF DECISION...9-2-1997.....

1. Smt Achuu and Smt Shipra Chakraborty (PETITIONER(S))

Shri B.C. Das.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Shri A.Deb Roy, Sr.C.G.S.C

ADVOCATE FOR THE
RESPONDENTS.

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

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

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

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Applications No. 130 of 1996 and
131 of 1996.

Date of Order : This the 9th Day of February, 1999.

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

Shri G.L.Sanglyine, Administrative Member.

Smt Achuu (O.A.No.130/96)

Smt Shipra Chakraborty (O.A.No.131/96) . . . Applicants

By Advocate Shri B.C.Das.

- Versus -

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

2. Director of Census Operation,
Nagaland,
Kohima.

3. Registrar General of India,
2/A Mansingh Road,
New Delhi-110011.

. . . Respondents.

By Advocate Shri A.Deb Roy, Sr.C.G.S.C.

O R D E R

BARUAH J.(V.C)

Both the original applications involve common questions of law and similar facts. Both the applicants were appointed Lower Division Clerk in the office of the Director of Census Operations, Nagaland in temporary capacity on ad hoc basis in the scale of pay of Rs.260-400/- per month for some specific period. After the expiry of the period of ad hoc appointments it was extended from time to time upto 31.8.1988. However even after that period they continued to work on ad hoc basis and they were also given the benefit of increment. They had been working since 1980/81 with a small break in the year 1983 but they are still working on ad hoc basis. Hence the present application.



2. In due course the respondents have entered appearance and filed written statement. Their contention is that the appointments were made without following the procedure prescribed and therefore they could not be regularised.

3. We have heard Mr B.C.Das, learned counsel appearing on behalf of the applicants and Mr A.Deb Roy, learned Sr. C.G.S.C for the respondents. Mr Das submits before us that the action of the authorities were unfair and unreasonable and therefore a direction should be given to regularise the applicants in their posts. Mr Deb Roy on the other hand submits that the appointments were not in accordance with the procedure prescribed as the applicants were not sponsored by the Employment Exchange and on that ground the Staff Selection Commission also rejected their candidature for appearing in the qualifying examination. Mr Deb Roy however has not been able to show any rule/guideline requiring the sponsorship of the applicants by the Employment Exchange for appearing in the Staff Selection Commission Examination. On the rival contentions of the parties, it is now to be seen whether the applicants are entitled to any direction. In this connection the learned counsel for the applicant has drawn our attention to a decision of the Hon'ble Gauhati High Court in Ch. Manihar Singh & others vs. The Chief Engineer, Irrigation and Flood Control Department, Government of Manipur, Imphal and others reported in (1994) 1 G.L.R 471. It was held in that judgment that it is a settled law that the government must behave like a model employer. The Government is not expected to exploit the employees and do not act unfairly or unreasonably. In State of Haryana and others vs. Piara Singh and others reported in AIR 1992 S.C 2130 the apex Court observed in para 10 of the judgment that creation and abolition of a post is the prerogative

R

of the Executive. It is the Executive again that lays down the conditions of service subject, of course, to a law made by the appropriate legislature. This power to prescribe the conditions of service can be exercised either by making Rules under the proviso to Art. 309 of the Constitution or (in the absence of such Rules) by issuing Rules/instructions in exercise of its executive power. The court comes into the picture only to ensure observance of fundamental rights, statutory provisions, Rules and other instructions, if any, governing the conditions of service. The main concern of the court in such matters is to ensure the Rule of law and to see that the executive acts fairly and gives a fair deal to its employees consistent with the requirements of Articles 14 and 16. It also means that the State should not exploit its employees nor should it seek to take advantage of the helplessness and misery of either the unemployed persons or the employees, as the case may be. The State must be a model employer. It is for this reason, it is held that equal pay must be given for equal work, which is indeed one of the directive principles of the Constitution. For that very reason a person should not be kept in a temporary or ad hoc status for long. Where a temporary or ad hoc appointment is continued for long the court presumes that there is need and warrant for a regular post and accordingly directs regularisation. The apex Court further observed that while all the situations in which the court may act to ensure fairness cannot be detailed here, it is sufficient to indicate that the guiding principles are the ones stated above. The contention of Mr Deb Roy is that the present applicants were not sponsored by the Employment Exchange. It is true that if there is any provision that the candidates should be sponsored by the Employment Exchange, that should

R3

contd..4

be followed because appointing a person duly sponsored by the Employment Exchange will atleast diminish the chance of arbitrary appointment. But in the present case there is nothing on record to show that the authority did make any attempt for giving an opportunity to the applicants to be sponsored. The applicants were working in the department for a long time but no attempt was made to enable them to be sponsored by the Employment Exchange. The materials available before us do not show any such attempt. In view of the above we have no hesitation to come to the conclusion that the present applicants who have been working for more than a decade on ad hoc basis deserve regularisation subject however that they are qualified. Therefore, we dispose of these applications with direction to respondents to consider regularisation of the applicants in the light of the decision of the apex Court given in the State of Haryana & Ors. vs. Piara Singh & Ors. This must be done as early as possible at any rate within a period of 3 months from the date of receipt of this order.

Applications are disposed of. No order as to costs.


(G.L.SANGLYINE)
ADMINISTRATIVE MEMBER


(D.N.BARUAH)
VICE CHAIRMAN

Application under Section 19 read with section 14 of the Administrative Tribunal Act, 1985.

OA No. 130/96.

Smti. ACHU-U, of Kohima, Nagaland.

...

Applicant

- Vs -

Union represented by the
Ministry of Home Affairs, New Delhi.
1. Government of India, New Delhi
2. Director of Census Operation,
Nagaland, Kohima.
3. Registrar General, India,
2/A Mansingh Road, New Delhi-110011.

... Respondents.

I N D E X

Sl. No.	Description of documents relief upon .	Page No.
1.	The Application .	1 - 8
2.	Xerox copy of the order of appointment dated 26.9.80 .	9
3.	Xerox copy of the order dated 21.7.92 allowing the last increment falling due on 1-7-92 .	10
4.	Xerox copy of the representation dated 7.10.93 .	11
5.	Xerox copy of the representation dated 23.11.95 .	12 - 14

For the use of Tribunal
Office.

Signature of the
Appellant.

Achu-U

Date of filing .

20.7.96.

Signature for Registrar .

Received copy

File No. CSC
24/7/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH.

OA No. 130/96.

Smti. Achum, *Adv. Shri R. Dangani*
resident of Kohima, Nagaland.

.... Applicant.

- Versus -

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

2. Director of Census operation,
Nagaland, Kohima.

3. Registrar General India,
2/A Mansingh Road,
New Delhi- 110 011.

.... Respondents.

Details of application :

1. Particulars of the order against which the
application is made :-

For non-regularisation of an adhoc appointment
and for not allowing to cross the E.B.

2. Jurisdiction of the Tribunal :

The applicant declared that the subject matter
of the action against which he wants redressal is within
the jurisdiction of the Tribunal.

3. Limitation :

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

4. Facts of the case :

I. That I belong to the Bill Tribes Community namely 'NAGA'.

II. That on 9-9-81, the applicant was appointed to the post of L.D.C. by the respondent No.2 in temporary capacity on ad-hoc basis in the scale of pay of Rs.260-400/- p.m. The appointment was made for a period of one month at the 1st Instance wide the order of appointment No.E-11011/21/80-TAS dtd. 9-9-81.

A Xerox copy of the order of appointment dated 9-9-81 is annexed hereto and marked as Annexure-I.

III. That thereafter the ad-hoc appointment was extended from time to time and the applicant was regularly drawing her pay along with annual increments.

IV. That in the mean time, the applicant was appearing in the examination held by the Selection Board. The applicant, however, could not come out successful in the said examination.

V. That the extension of the ad-hoc appointment has not been made w.e.f. 31-8-88. She has, however, been allowed to draw her last annual increment failing due on 1-7-92 by order No.A-11011/82-ADM-Pt.II dated 21-7-92.

A xerox copy of the order dated 21-7-92 is annexed hereto and marked as Annexure-II.

II. That on 1-7-93, the applicant had ~~not~~ crossed the E.B. No order has been passed to do so.

VII. That under the circumstances, the applicant has been discharging her duties quite faithfully and to the satisfaction of the authority concerned upto date only with the hope that her ad-hoc appointment will be regularised by exempting from appearing in the S.B. examination and she would be allowed ~~not~~ all service benefits which she is entitled to.

VIII. That till to date the applicant has put in about more than 15 years' service without any break.

IX. That on 7-10-93, the applicant submitted a representation praying for regularisation of her ad-hoc appointment by exempting from appearing in the S.B. examination.

X. That since the applicant did not receive any reply to the said representation, the applicant, on 23-11-96 again submitted another representation praying for regularisation of her ad-hoc appointment by exempting from appearing in the S.B. examination and for allowing her all service benefits, which she is entitled to.

A xerox copy of each of the said representations dated 7-10-93 and 23-11-95 is annexed hereto and collectively marked as Annexure-III.

XI. That the applicant has not received any reply to the said representations till to date.

XII. That the applicant is now almost over-aged and as such she is not in a position to obtain any Govt. job any where.

6. Grounds for relief with legal provisions :-

a) For that the applicant having rendered about more than 15 years of continuous service, the requirement, if any of passing the examination held by the S.B. is liable to be waived and her ad-hoc appointment regularised with all service benefits.

b) For that in absence of any precondition in the order of appointment for regularisation of the applicant's service, the regularisation of her service now cannot be withheld.

c) For that the applicant having been allowed to draw her pay and allowances including annual increments for the last 15 years or so regularly, her increments cannot be withheld now without any reason.

d) For that the applicant having been allowed to draw her annual increments regularly upto 1-7-92, her crossing the E.B. cannot be withheld now without any blamish in her service career or any reason whatsoever.

e) For that the applicant having been retained in service continuously for about 15 years, she can neither be deprived of her service benefits nor can she be asked to leave the job without any reason.

f) For that in any view of the matter this is a fit case where this Hon'ble Tribunal may be pleased to pass an order directing the respondents to regularise the ad-hoc appointment of the applicant with all service benefits including the annual increments due and crossing of the E.B.

6. Details of the remedies exhausted:

The applicant declares that he has availed of all the remedies available to him under the relevant service rules etc.

7-10-93 - The applicant submitted representation but to no effect.

23-11-95- The applicant again submitted representation; he has however, not revived any reply thereto as yet.

7. Matters not previously filed or pending with any other court :

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any Court or any other authority or any other Bench of the Tribunal nor any such application, writ petitioner suit is pending before any of them.

8. Reliefs sought :

In view of the facts stated in para 4 above, the applicant prays for the following reliefs :-

I. Regularisation of the ad-hoc appointment made by the order of appointment dated 9-9-81 by exempting from appearing in the examination held by S.B.


7/8/96

II. Any other service benefit or benefits which the applicant is entitled to.

9. Interim order, if any prayed for; pending final disposal of this application, the applicant should not be disturbed in her service.

10. in Particulars of Bank Draft/Postal order filed/respect of the application fee : Cross Postal order No.B 09346201 dated 7-6-96 to pay in Guwahati Post Office.

11. List of enclosure :

1. Ex Xerox copy of the order of appointment dated 9-9-81.

2. Xerox copy of the order dated 21-7-92 allowing the last increment falling due on 1-7-92.

3. Xerox copy of the representation dated 7-10-93.

4. Xerox copy of the representation dated 23-11-95.

VERIFICATION

I, Smti Achuu, ~~W/o. R. Angami~~, aged about 32 years, working as L.D.C. in the office of the Directorate of Census operation, Nagaland, ~~in~~ resident of Village Kohima, Nagaland do hereby verify that the contents of paras 1 to 11 are true to my knowledge and that I have not suppressed any material fact.

Date : 19/12/96
Place: Agneshal

Signature of the applicant.
(ACHUU)

(8)

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

OA No. 130/96

Shrimati Achuu Appellant

Versus

The Union of India and others..... Respondent

On behalf of Shrimati Achuu

Know all men by these presents that the above-named applicant do hereby nominate, constitute and appoint Shri Bhagaban Chandra Das and Nirod Kumar Das, Advocates to be my lawful Advocates to appear and act for me in matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition, etc. for me and on my behalf and I agree to ratify and confirm all acts so done by the said Advocates as mine to all intents and purposes. In case of nonpayment of the stipulated fees in full no Advocate will be bound to appear or act on my behalf.

In witness whereof I hereto set my hand
on this day of 19th July 1996.

Received from the executant, satisfied and
accepted. *M. Das*

Advocate.

And we find
R. Das
Advocate
20.7.96.

Annexure B Note

No. 11011/21/80-10.
GOV. OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE SECRETARY OF COMMISSION
OPERATIONS IN JAMMU & KASHMIR.

Dated 20th, the
21 August, 1971.

of

Re/P

QUILL OF THE CLERK.

Mrs. Asha Bhatia is appointed as Lower Division Clerk in the
scale of pay of Rs. 200/- per month. B-30-11-8-370-10-40/- per month
plus Doings allowance of Central Government and all other
allowances at prevailing from time to time in a temporary capacity
on ad-hoc basis for a period of three months with effect from
the forenoon of 21st August, 1971 to 21st November, 1971.

This appointment does not confer any right on her for
regularisation or regular appointment.

3/1-CANBERRA
DIRECTOR OF COMMISSION OPERATIONS
BAGELAND, KOTLAH.

No. 11011/21/80-10.
Copy to:-

63 21 August, 1971.

1. Pay and Accounts Officer (Canberra), Re/P
Ministry of Home Affairs,
A.C.C. & M Building,
NRW DELHI.

2. Registrar General, India
Rothschild Annex,
2/4 Clarendon Road,
NRW DELHI-110011.

3. Accountant (2 copies) - for necessary notation.

4. Mrs. Asha Bhatia, L.D.C.

5. Guard File.

Do. 63 21 August, 1971

1. A.C.C. & M
Deputy Director of Commissions Operations
BAGELAND, KOTLAH.

2. 3. 4. 5.

V. M. N. R.
21/8/81.

Wife
My Deed
22/2/96

मानव संख्या
GOVERNMENT OF INDIA
यह मंत्रालय
MINISTRY OF HOME AFFAIRS-GRHA MANTRALAYA
कार्यालय निदेशक, जनगणना परिवर्तन, नागालैण्ड
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS,
NAGALAND.

दिनांक, कोहिमा

Dated, Kohima 21st July '92

ORDER.

The following staff members of the Dte. of Census Operations, Nagaland, Kohima are hereby granted their annual increment with effect from the date shown against each of them.

SL. NO.	Name & Designation	Present basic pay	Increase due	Rate of increment	Raising his pay date	Remarks
1	2	3	4	5	6	7
1.	Shri Linus Angami Assistant	Rs.1680/-	1.7.92	Rs.40/-	Rs.1720/-	
2.	Smt. Shipra Chakravarty, L.D.C.	Rs.1130/-	1.7.92	Rs.20/-	Rs.1150/-	
3.	Smt. Achal-ji, L.D.C.	Rs.1130/-	1.7.92	Rs.20/-	Rs.1150/-	

P.C. Baruah
21.7.92

(P.C. BARUAH)
Asstt. Director of Census
Operations, Nagaland,
Kohima.

NO. A-11011/25/82-ADM. (pt.II). Dated Kohima, the 21st July, 1992.
Copy to :-

1. Accountant (2 copies) - for necessary action.
2. All concerned staff.

P.C. Baruah
21.7.92

(P.C. BARUAH)
Asstt. Director of Census
Operations, Nagaland,
Kohima.

W. H. S.
Harriet
22/7/96

To

The Registrar General, India,
2/A, Mansingh Road,
New Delhi - 110011.

(Through proper channel).

Sub: Regularisation of ad-hoc service.
Sir,

I have the honour to inform you that I have been serving in this office as an ad-hoc L.DoC since 1981 Census with continuous service since 1983. I have requested the office on several occasions to regularise my service and the office had put my case to R.G.I for a favourable decision. All these years I have been told that my case is under consideration in the concerned Ministry. I have always requested that my case should be considered on humanitarian ground since I have devoted the best of my life in the interest of this office and I have become overaged to look for my new job elsewhere.

But now I am asked to appear the Special examination of the SSC in the month of Dec'93 which was beyond my expectation.

I, therefore, would like to request you kindly to look into the matter and take up my case with appropriate authority so that my case is considered on humanitarian ground and my service is regularised w.e.f. the date of my continuous service without appearing the SSC examination.

Yours faithfully,

Mr. ^{10/12/93}
(ACHU.O)
L.DoC
Directorate of Census
Operations, Nagaland,
Kohima.

Mr.
Achut
22/12/93

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The Registrar General,
India, 2/A Kensingh road
New Delhi-110011.

(Through Proper Channel)

Dated the 25th NOV/1965.

Sub : Prayer for regularization of ad-hoc
appointment.

Sir,

Most respectfully I beg to lay before you the following few lines for favour of your kind consideration and sympathetic order.

- 1) That I belongs to the Hilli Tribes Community namely, Ninga.
- 2) That sir, on 26.02.62, the Director of Census Operation, Nagaland was pleased to appoint me as L.S.C. vide order of appointment No. B-11011/21/60-TAB of the same date in the scale of pay of Rs. 200-400-00 P.M. At the first instance, the appointment was valid only for a period of one month from the date of joining and the same was made on ad-hoc basis in temporary capacity.
- 3) That thereafter, the appointment was extended from time to time and I was allowed to draw the annual increments without any break.
- 4) That in the mean time, I appeared in the examination held by the Selection Board but to no effect, yet, I have been continuing my service till now to the satisfaction of the authority concerned.

5. That under the above circumstances, neither the extension of my service has been made w.e.f. 31.3.88 nor has it been regularised. I have still been working up to date and regularly drawing my salaries & I have allowed to draw the last annual increment falling due on 1.7.88 by order No. A-11011/25/88-ADIL-Pr-II dated 21.7.88.

6. That on 1.7.88, I had to cross the E.R. However, no order has yet been passed allowing me to cross the E.R.

7. That on 7.10.88, I submitted a representation praying for regularising the appointment by exempting from passing the S.P. examination. In spite of repeated reminders, I have not received any reply to the said representation.

8. That as my ill luck would have it, I am now overaged and I am not in a position to obtain any Govt. job anywhere.

9. That I have already put in more than 16 years continuous service in your office with the only hope that my appointment will be regularised by exempting from S.P. examination and I shall be given all service benefits. It was my no. 1st of placing to mention here that I have been allowed C.P.E. benefit in the mean time.

Contd. p/3

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30. That I beg to state that my appointment to
this service cannot continue on ad-hoc basis for such a
long period ; and unless my appointment is regularised,
I shall suffer at suitable time and shall be put to
great hardship and inconveniences.

In the above premises, I pray that
the House may be pleased to consider this
representation and on consideration thereof be
pleased to regularise my appointment to
the post of I.D.C. by exempting from S.L.C.
organisation and allow me all other benefits
including the R.B. to which I am entitled.

And I, as in duty bound, shall ever pray :

Yours faithfully,

S. C. J.

(S. C. J.)

I.D.C. & Director of
Canteen Operation,
England.

W.M.H.
27/6/96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH,

GUWAHATI.

Filed in Court
on 6-12-96

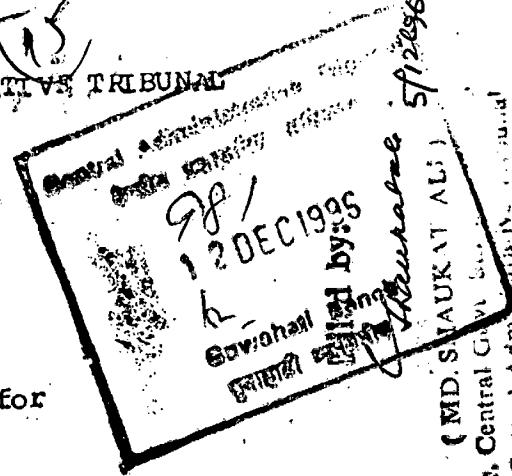
Received by
Court Master
6/12

O.A. No. 130/96

Smt. Achal Angami

-vs-

Union of India for
and



(M.D. SIAUKAT ALI)
Dr. Central Govt. Serv. Comm.
Guwahati Bench, Central Admin. Tribunal

In the matter of -
Written statements submitted by the Respondents
No. 1, 2 & 3.

Written Statement.

The humble Respondents submit their written statement
as follows :-

1. Fact with regard to statements made in para 1, 2 and 3 of the applicant, the Respondents have no comments.
2. Fact with regard to statements made in 4(I) and (II) of the application the Respondents have no comments. The Respondents further beg to state that the appointment was made simply on the basis of applications directly collected from Applicant without following the procedures prescribed for regular appointment. Neither the Employment Exchange sponsored her name, nor the vacancy was notified in any local news papers. In fact, the appointment was made due to urgency, and it was purely on ad-hoc basis which is liable to be terminated at anytime without assigning any reason thereof.
3. Fact with regard to statements made in para 4(III) of the application, the Respondents beg to state that it is not true that the Applicant was regularly drawing her pay from the date of her initial appointment. There was a break in service and annual increments were not allowed regularly. The last break in service was on 7.7.1983.

A photo copy of the relevant page of Service Book
is enclosed as Annexure - I.

..... 2/-

-2-

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4. Fact with regard to statements made in para 4(IV) of the application the Respondents beg to state that the Applicant could not come out successful is not true, because the candidature of the Applicant in qualifying exam was rejected by the Staff Selection Commission on the ground that the Applicant's name was not sponsored by the Employment Exchange. A photo copy of the letter from Staff Selection Commission is enclosed as Annexure-II.

5. Fact with regard to statements made in paragraph 4(V) of the application the Respondents beg to state that the Respondents have no comments. But further beg to state that not issuing extention order does not mean that her appointment is made for indefinite period.

6. Fact with regard to statements made in para 4(VI) of the application, the Respondents beg to state that she being not a regular employee but on ad-hoc one, is not entitled to cross E.B.

7. Fact with regard statements made in para 4(VII) of the application, the Respondents beg to state that is is a fact that she has discharging her duties quite faithfully. But there is no such provision to exempt her from appearing in qualifying exam. Sincerity and faithfulness are fundamental requirement that every govt. servant possess them irrespective of the nature of their appointment.

8. Fact with regard to statements made in para 4(VIII) of the application the Respondents beg to state that the same is not correct and hence denied. She has put about 13 years of service with effect from 7.7.1983.

9. Fact with regard to statements made in para 4(IX), the Respondents beg to state that it is a fact that the Applicant submitted representation for regularisation of her ad-hoc service. But exempting the Applicant from appearing in the qualifying exam is not within the powers of Respondents.

10. Fact with regard to statements made in para 4(X) of the application the Respondents beg to state that, as she is ad-hoc employees and not entitled for regularisation, her representation was not considered.

11. Fact with regard to statements made in para 4(XI) of the application as she is not entitled for regularisation so no reply was given to her.

12. Fact with regard statements made in para 4(XII) of the application the Respondents are not responsible she being over aged. Further, the Respondents never objected her for searching a new job any where.

13. With regard to statements made in para 5 of the application regarding grounds for relief with legal provision the Respondents beg to state that none of the grounds is maintainable in law as well as in facts and as such the application is liable to be dismissed.

14. That with regard to statements made in paragraph 6 of the application the Respondents beg to state that they have no comments.

15. With regard to statements made in paragraph 7 of the application the Respondents beg to state that they have no comments.

16. With regard to statements made in para 8 of the application regarding relief sought for, the Respondents beg to state that the Applicant is not entitled to any of the relief sought for. And as such the application is liable to be dismissed.

17. That with regard to statements made in para 9 of the application regarding interim order the Respondents beg to state that in view of the facts and circumstances narrated above the interim order is liable to be vacated.

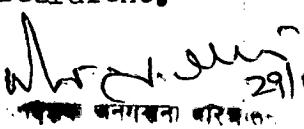
18. That with regard to statements made in para 10, 11 and 12 of the application the Respondents have no comments.

19. The Respondents statement that the application is devoid of merit and as such the application is liable to be dismissed.

VERIFICATION

I, S.S.Hiremath Head of the Office of the Directorate of Census Operations, Nagaland, Kohima do hereby solemnly declare that the statements made above in the written statements are true to my knowledge, belief and information, and I signed the verification on this day 29th November, 1996 at Kohima.

Declarant.


29/11/96
S.S. Hiremath
Deputy Director of Census Operations
NAGALAND

1	2	3	4	5	6	7
पद का नाम और वेतनमान Name of post and scale of pay	मूल पद है या स्थानापन और स्थायी है या अस्थायी* Whether substantive or officiating, and whether permanent or temporary*	यदि स्थानापन हो तो लिख कि (1) मूल पद नियुक्ति या (2) वया सेवा अनुच्छेद 371 के ० से ० निं० के अनुसार पेंशन के लिये गिनी जायेगी ? If officiating, state— (1) substantive appointment, or (2) whether service counts for pension under Art. 371, C. S. R.	मूल पद में वेतन Pay in substantive post	स्थानापन होने का अतिरिक्त वेतन Additional pay for officiating	"वेतन" शब्द के अंतर्गत अन्य परिलक्षित Other emolu- ments falling under the term "Pay"	नियुक्ति की तारीख Date of appointment
Appointed... L.D.C. on Ad-hoc basis			३० R.s. ३० P.	३० R.s. ३० P.	६० R.s. ६० P.	
The scale of pay of Rs. 960-6-290- B-6-326-EB-8-390-10-140/- vide ref. No. R-11011/21/80-TAB. dt. 1-9-80						
			260.00			21-8-81
<i>Q. B. Ans</i>						
उप निदेशक जनगणना परिवासन Deputy Director of Census Operations नामांकन NAGALAND						
..... Smt. Achu is Ad-hoc has not been granted annual increment from the period from 21-8-81 to 6-7-83 as there were service breaks during that period. Her continuous service has started from 8-7-83 after the last service break on 7-7-83. So her date of increment will be 1-7-83 fall on 1-7-84.			260.00			1-7-83

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ANNEXURE - II
91
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ता. ता : स्टासेलकम, नई दिल्ली
Telegraphic Address : STASELCOM, NEW DELHI

By Read. Post

सं. 23/1/93-EHQ/4210017-18/Vol. I
No.

भारत सरकार
कम्बारी चयन आयोग
कामिक तथा प्रशिक्षण विभाग
कामिक, लोक शिकायत तथा प.प. : गवालय
द्वाक नं. 12
केन्द्रीय कार्यालय परिसर, लोटी रोड

GOVERNMENT OF INDIA
STAFF SELECTION COMMISSION
DEPARTMENT OF PERSONNEL & TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
& PENSIONS
Block No. 12
KENDRIYA KARYALAY PARISAR
Lodi Road
नई दिल्ली dated 4th September, 95
New Delhi-110003

To

Shri Emony Peseyie,
O/f the Director of Census Operations,
Nagaland, KOHIMA - 797001.

Subject: Special Qualifying Examination, 1993 for regularisation
of services of Ad-hoc L.D.Cs held on 26-12-93.

.....

Sir,

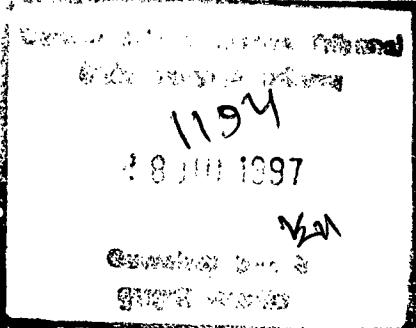
I am directed to refer to your letter No.A-11098/8/
88-Adm-268,387 dated 1-6-95 and 27-7-95 on the subject
cited above and to say that both candidate of your office
namely Smt. Achuu Angami, Roll No.4210017 and Smt. Shipra
Chakravarty Roll No.4210018 did not fulfill the eligibility
condition of the said examination laid down in the D.P.S.T.
OM No.28036/10/92-Estt(D) dated 2-8-1993 via para 2(iv)
which states that the candidate must have been recruited through
Employment Exchange. As per your office letter No.A-11018/8/
88-Adm-336 dated 21st March, 94 these candidates do not fulfill
the condition of having been recruited through Employment
Exchange. Thus the candidature of the said candidates has
been rejected by the Commission for non fulfillment of the
eligibility conditions of the Special Qualifying Examination, 93.

Yours faithfully,

(राज इन्हानी)
Section Officer

650
11.9.95

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH
 GUWAHATI



O.A. 130/96.

vs
 Smti. Achuk ...

Applicant

- Vs -

The Union of India and others.

... Respondents

(Affidavit on behalf of the applicant
 above named).



I, Smti. Achuk, wife of Shri Angama, aged
 about 34 years, resident of Kohima, Nagaland
 do hereby solemnly affirm and state as follows :-

1) That I am the applicant in the above case and
 I am acquainted with the facts and circumstances
 thereof.

2) That I, on 7.7.97, submitted an application
 praying for restoration of the case to file and deciding
 on merit by setting aside the order of dismissal dated
 9.6.97 passed in the above case by this Hon'ble
 Tribunal sitting in circuit in Kohima Bench. It was
 stated in the said application that when the case was
 posted for hearing on 29.5.97 before this Hon'ble
 Tribunal in Guwahati Bench, the same was transferred

Recd exp
 Smti. Achuk
 28.7.97

④
 Guwahati Bench

File No. 1194
 Date 28.7.97

to Kohima Bench by fixing 9.6.97. On 31.5.97, I received a telephonic message from my Advocate Shri N.K. Das of Guwahati to the said effect. My Advocate also informed me that he would not be in a position to attend the Kohima Bench and I should engage another counsel at Kohima to conduct my case. It was further further stated in the said application that inspite of my best efforts, I could not engage another Advocate at Kohima and my case was dismissed for default by order dated 9.6.97.

3. That never before I, appeared in any Court of law and as such, I did not know that I could appear in person also in absence of my Advocate. I also did not know that I could have submitted an application praying for adjournment.

4. That the case has been dismissed for default for my bonafide for default for my bonafide mistake and I shall suffer irreparable loss and shall be put to great hardship and inconveniences if the case is not restored to file by setting aside the order of dismissal dated 9.6.97.

5. That I state that a bonafide mistake which is not unreasonable is a sufficient cause to order restoration.

6. That I state that my learned Advocate from Guwahati also did not instruct me in detail that I could either appear before the Hon'ble Tribunal at Kohima in person or that I could submitted an application praying for adjournment as he was under impression that I would be

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: 3 :

in a position to engage another Advocate of Kohima to conduct my case on 9.6.97 .

7. That the statements made in paragraphs 1 to 4 of this affidavit are true to my knowledge and the statements made in paragraph 6 are true to my information derived from my Advocate of Guwahati which I believe to be true and the rests are submissions before the Hon'ble Tribunal .

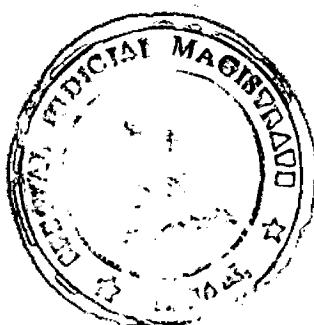
N.K.Das

DEPONENT

Identified by me :

Nitrold Kumar Das
Advocate .

Solemnly affirmed and declared before me by the above deponent who is identified by Shri N.K. Das , Advocate , Guwahati on this the 25 th day of July, 1997 .



OR 25.7.97
MAGISTRATE :: GUWAHATI .
D.D.C. 11.1.1997
D.D.C. 3.7.1997