

30/100
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

1) M.P. 124/198 under Pg. 162 Default INDEX
22.6.198

✓ O.A/T.A No. 131/96.....

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

E.P/M.A No.....

2) M.P. 267/198 under Page 162

1. Orders Sheet..... OA Pg. 1 to 7
2. Judgment/Order dtd. 9.2.1999 Pg. 1 to 4. All Common under OA 130 & 131/96
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 131/96 Pg. 1 to 14
5. E.P/M.P. 144/198 Pg. 1 to 2
6. R.A/C.P. Pg. 1 to 4
7. W.S. Pg. 1 to 6
8. Rejoinder Pg. 1 to 1
9. Reply Pg. 1 to 1
10. Any other Papers Pg. 1 to 1
11. Memo of Appearance Pg. 1 to 1
12. Additional Affidavit Pg. 1 to 3
13. Written Arguments Pg. 1 to 1
14. Amendment Reply by Respondents Pg. 1 to 1
15. Amendment Reply filed by the Applicant Pg. 1 to 1
16. Counter Reply Pg. 1 to 1

SECTION OFFICER (Judl.)

Balaji
29.4.18

DA No. 131/96

MP No. (DA)

RA No. (DA)

CP No. (DA)

Shreya Chendury APPLICANT(S)
VERSUS

Chicen J. Andher & Ors. 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

2/8/96

Court's Orders

This application is in
form and within time
C. E. of Rs. 50/-
deposited vide
IPO/SD No 346200
Dated 7/6/96

9/2/96
B.C. Das
2/2/96

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.

17.9.96

Notice issued to the
concerned parties
v/c No. 3119 dt.

17.9.96.

13/9

16-9-96

None for the respondents. Written
statement has not been submitted.

11-10-96

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

1m

60
Member

1) Service reports are still awaited
2) W/ statement has not been filed
3) 4.10.96

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

List for written statement and
further order on 15.11.1996.

Notice duly served on
resps No. 1, 2.

Re: A statement has not been
filed

trd

Shreya

4/10

60
Member

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.

6/12
Member

pg

15/11

6.12.96 Mr. S. 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.

6/12
Member

trd

6/12

12-12-96

24.4.97

On the prayer of Mr. M. Chanda, learned counsel for the applicant the case is adjourned to 29.5.97.

Member

Vice-Chairman

28.5.97

pg

Let the case be listed for hearing on 29.5.97.

6/12
Member

Vice-Chairman

1) Pages 12 and 13. 24.4.97
not legible.

2) No rejoinder has been filed.

3) Memo of appearance pg
not yet filed.

25/4

6/28/97

O.A. - 131/98 (4)

1-4-98

Case is ready for hearing.

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

13

List for hearing on 6-7-98.

6
Member


Vice-Chairman

By
3.7

1m

NS
2/9

6.7.98

11

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

6
Member


Vice-Chairman

nkm

NS
3/7

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.

6
Member


Vice-Chairman

trd

NS
19/8

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.

6
Member


Vice-Chairman

1m

NS
2/9

3.9.98

There is no division Bench. Adjourn to 21.9.98.

By and,

19

(3)

3

22xs.

29.5.97

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

3.6.97

1) No rejoinder has
been filed.

3/6

60
MemberJ.B.
Vice-Chairman

pg

30/5

9.6.97

There is no representation on behalf of the
(Kohima) applicant. Mr. S.Ali, Sr. C.G.S.C. is present.

3.7.97

The case is dismissed for default.

60
MemberJ.B.
Vice-Chairman

trd

28.7.97

In view of the order passed in
Misc. Petition No.207/97 the original
application is restored to file and
is fixed for hearing on 21.8.97.

60
MemberJ.B.
Vice-Chairman

nkp

30/7

21.8.97. Mr. S. Ali, Ar-CGSC. is in town
Assigned to 10.11.97.

trd

By order

7-11-97

1) written statement
has been filed.

2) No. Memo of appearance
has been filed.

21.11.97. Assigned to 9.1.98
The case is ready
for hearing as regards
W.S. 18.8.11.98

9.1.98. Assigned to 9.1.98
By an

9.1.98. There is no representation
List on 1.4.98. By an

Notes of the Registry	Date	Order of the Tribunal
Affidavit & WTS by Smt. S. Ali	21.9.98	Division Bench is not available. List on 20.10.98 for hearing. Member
	PG 21/9	
As per order dt 20.10.98, no records have been produced by Mr. S. Ali, C.G.S.C. is yet. Therefore the case has been placed before the Hon'ble Com- mittee for necessary order. b/w 7.12.98	20.10.98	Heard both counsel for the parties. Hearing concluded. Judgement reserved. 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
		Vice-Chairman
	2nd 2.98	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.
		Member
		Vice-Chairman
28-12-98 Affidavit & written Statement by Smt. S. Ali	8.12.98	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
		Vice-Chairman

Notes of the Registry	Date	Order of the Tribunal
<u>12-1-99</u> Written statement and Affidavit has been filed 12/1/99	29.12.98	Records have not been produced. The respondents are directed to produce the records within two weeks from today. Fix it on 13.1.1999 for production of records. Member
<u>18-1-99</u> Written Statement and Affidavit has been filed 18/1/99	13.1.99	The respondents have produced the records. Let this case be listed for orders on 19.1.99. Member
	20.1.99	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. Member
	27.1.99	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. List on 8.2.99 for hearing. Member
pg 27/1/99 8-2-99		Vice-Chairman Vice-Chairman By and for

Notes of the Registry	Date	Order of the Tribunal
<p>23.2.99</p> <p>Copies of the Judgments have been sent to the D/Secy. for issuing the same to the Parties through Regd. with Afo.</p> <p>SL</p> <p>Issued vide despatch No. 663 to 667 dt. 25-2-99.</p> <p>DR 20.3.99</p>	<p>9.2.99</p> <p>pg</p>	<p>Heard counsel for the parties. Hearing concluded. Judgment delivered in open Court, kept in separate sheets. The application is disposed of in terms of the order. No order as to costs.</p> <p>69 Member</p> <p> Vice-Chairman</p>

Notes of the Registry	Date	Order of the Tribunal
00		

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.

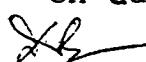
. . . Respondents.

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 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

contd..3

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

DR

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.

Sd/- VICE-CHAIRMAN

Sd/- MEMBER (ADMIN)

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

ST NO. 131/96

Smti. Shipra Chaudhury, now Chakraborty, W/o. N. Chakraborty, of Kohima, Nagaland.

... Applicant

Union - vs - represented by
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

S.l. No.	Description of documents relief upon .	Page No.
1.	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.

Date of filing .

20.7.96.

Smt. Shipra Chakraborty

Signature for Registrar.

Received copy.

U. S. CSC
21.7.96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH.

OA No. 131/96.

Smti. Shipra Chaudhury,

now Chakraborty,

W/O. Shri P. Chakraborty,

of Kohima Nagaland.

..... Applicant.

- Versus -

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

2. Director of Census operation,
Nagaland, Kohima.

3. Registrar General, India,
2/A Mansingh Road,
New Delhi- ~~110001~~ 110 011.

..... Respondents.

Details of application :

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

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

2. Jurisdiction of the Tribunal :

The applicant declares 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.

44. Facts of the case :

I. That on 26-9-80, 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 vide the order of appointment No.R-11011/21/80-TAB Dated 26-9-80.

A Xerox copy of the order of appointment dated 26-9-80 is annexed hereto and marked as Annexure- I.

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

III. 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.

IV.

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

falling 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.

V. That on 1-7-93, the applicant had now crossed
the E.R. No. order has been passed to do so.

VI. 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 appoint-
ment will be regularised by exempting from appearing
in the S.B. examination and she would be allowed all
service benefits which she is entitled to.

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

VIII. 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.

IX. That since the applicant did not receive
any reply to the said representation, the applicant,
on 23-11-95 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.

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

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

5. 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.

for her chakravorty
so
so
so

- 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 petition or 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 26-9-80 by exempting from appearing in the examination held by S.B.

Applicant's signature

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. Particulars of Bank Draft/Postal order filed in respect of the application fee : Cross Postal order No.B.09346260 dated 7-6-96 to pay at Guwahati Post Office.

11. List of enclosures :

1. Xerox copy of the order of appointment dated 26-9-80.
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.

12. Laws to be relied upon :

VERIFICATION

I, Smti. Shipra Chaudhury, now Chakraborty, W/O. Shri P. Chakraborty, aged about 40 years, working as L.D.C. in the office of the Directorate of Census operation, Nagaland, resident of Village Nagaland, Kohima, 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 : 19.7.96

Place : Guwahati

Smt. Shipra Chakraborty
Signature of the applicant.

VAKALATNAMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

OA no. 131/96

Shrimati Sipra Chaudhury now Chakravorty.....Appellant

Versus

Union of India and others Respondent

On behalf of Shrimati Sipra Chaudhury Now Chakravorty

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 in-
tents 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 19 day of July 1996.

Received from the executant, satisfied and
accepted.

N. Das.
Advocate.

Abd accepted
R. Chakravorty
Advocate.
20. 7. 96.

NO. R. 21011/21/80. TAB.
GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS
OFFICE OF THE DIRECTOR OF SECURITY OPERATIONS
NEW DELHI. Dated, New Delhi, the
26th September, 1980.

О П Д Е К О Р И П Р О И Т В И В И

Mr. G. N. G. Goughury is appointed as Lower
Warden Clerk in the Scale of Pay of R. 500-6-970-13-6-
and Rs. 500-6-970-13-6-10/- per Diem. Extra Allowance at
Central Government Rates and Little Allowances as
admissible from time to time in Temporary capacity on
ad-hoc Basis.

The agreement is initial for a period of 1 (One) month with effect from the date on which she reported for duty.

This appointment does not confer any right on
you for regularisation of appointment.

(DANIEL KEIT)
DIRECTOR OF CRIMSUB OPERATIONS
NATIONAL INSTITUTE OF JUSTICE

1937/82/80-TAB: - Petrol engine, the 10th Counterpart, 1930.

Ministry of Home Affairs,
A.O.C.H. & M Building,
NEW DELHI.

Mr. Registrar General, India,
Kotah House Annex,
D/S, Matsingh Road,
NEW DELHI-110011.

3. Argument(s) (2 people) for necessary action.

1. Smt. Shripa Choudhury
2. Investigator
3. Guard File.

(DANIEL KENT)
DIRECTOR OF GENERAL OPERATIONS
MANALANDIA LTD. LTD.

भारत सरकार
GOVERNMENT OF INDIA
गृह मंत्रालय
MINISTRY OF HOME AFFAIRS/GRIHA MANTRALAYA
कार्यालय निदेशक, जनगणना परिवर्तन, नागालैण्ड
OFFICE OF THE DIRECTOR OF CENSUS OPERATIONS,
NAGALAND.

भित्ति, कोहिमा

Dated, Kohima 21st July '92

O R D E R .

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

SL. NO.	Name & Designation	Present basic pay	Increment due	Rate of Increase	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. Achilli, 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.

Attested
by
P.C. Baruah

To

The Registrar General, India
Office of the Registrar General, India,
2/A, Hanumanth road,
NEW DELHI - 110011.

(Through the proper channel)

SUBJ: REGULARISATION FOR AD-HOC SERVICE

Sir, (O) Court

Sir, I have the honour to lay the following few lines for favour of your kind decision.

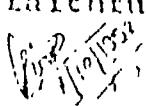
That Sir, I have been serving in this office since September, 1980 as an ad-hoc L.D.C. I have submitted several representations to the office for regularisation of my service but till now no favourable response has been received from any quarter. Now I have been asked to appear in the Special S.S.C. Examination to be held at Guwahati during the month of December, 1993.

After serving 13 years at one place, even though on ad-hoc basis, it is very difficult to take such a risk since of passing out, in any examination depends partly on one's luck.

I, therefore, would like to request you kindly to take up the matter with the appropriate authority, so that my case is considered for regularisation without appearing in any qualifying examination.

Atted Kohima the
15th October, 1993.

Yours faithfully,


(SUPRIYA CHAKRABARTY)

L.D.C.

DIRECTORATE OF CENSUS OPERATIONS,
NAGALAND, KOHIMA.

*Atted
Supriya
Chakrabarty
15/10/93*

The Comptroller General
Lokman, Government of
New Pakistan, Lahore.

(The undersigned is pleased to)

United the undersigned,

Sabir's Petition for continuation of existing
appointment.

Sir,

Most respectfully I beg to lay before you the
following for have the favour of your kind consideration
and sympathetic action.

1. That Mr. M. S. S. S. the Director of Census
Operation of Mysore was pleased to appoint me as
Local Valuer of Government No. 11/11/21/80-TAB on
the same date in the scale of pay of Rs. 200-00-00 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.

2. That thereafter, the appointment was extended
from time to time and I was allowed to draw the
normal increments without any break.

3. 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.

Comptroller

4. That under the above circumstances, neither the extension of my service nor leave made M.O.F. 21-6-88 nor has it ever been allowed. I have still been working up to date and regularly drawing my salaries. I have allowed to draw the last named increment falling due on 1-7-82 by order No. 1-13011/25/82-ADM-Pr. II dated 21-7-82.

5. That on 1-7-83, I had to cross the E.B. However, no order has yet been passed allowing me to cross the E.B.

6. That on 7-10-83, I submitted a representation praying for regularising the appointment by exempting from passing the S.B. examination. Despite of repeated reminders, I have not received any reply to the said representation.

7. That as my old work would have it, I am now overaged and am not in a position to obtain any Govt. job any more.

8. 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.B. examination and I shall be given all service benefits. It may not be out of place to mention here that I have been allowed G.P.R. benefit in the mean time.

14.

That I beg to state that an appointment to any service cannot continue on ad-hoc basis for such a long period ; and unless my appointment is regularised, I shall suffer irreparable loss and shall be put to great hardship and inconvenience.

In the above premises, I pray that your Honour may be pleased to consider this representation and on consideration thereof be pleased to regularise my appointment to the post of L.D.C. by exempting from G.D. exemption and allow me all other benefits including the benefit of proceeding the G.D. to which I am entitled.

And I am in due bound, will ever pray.

Yours faithfully,

Sd/-

(SHIPRA CHAUDHURY)

Enclo.

W.H.C.
Chd
27/7/96

O.A.No.131/96

Smt. Shipra Choudhury

Filed in Court

on... 6-12-96

-Vs-

Union of India

(Honourable
Court Master

6/12

And

In the matter of :- Written statements submitted by the

Respondents No.1,2 & 3.

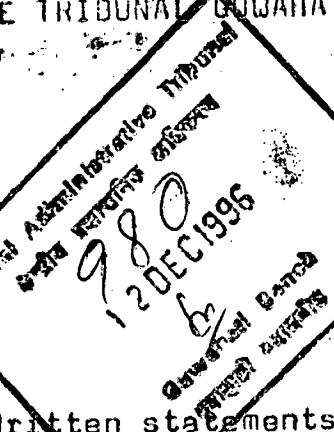
Written statement.

The humble Respondents submit their written statement as follows:-

1. Fact with regard to statements made in para 1,2 and 3 of the application, the Respondents have no comments.
2. Fact with regard to statements made in 4 (I) 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 any time without assigning any reason thereof.
3. Fact with regard to statements made in para 4 (II) 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.

4. Fact with regard to statements made in para 4 III of the application the Respondents beg to state that the Applicant could not come out successful is not true. Because the affidavit of



Filled by:
Smt. Shipra Choudhury
(MD. SHAUKAT Ali)
Guwahati Bench
Central Govt. Sector
Central Admin. Tribunal
Guwahati Bench, Guwahati

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(IV) 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 (V) 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(VI) of the application, the Respondents beg to state that it 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 should possess them irrespective of the nature of their appointment.

8. Fact with regard to statements made in para 4(VII) 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 (VIII), the Respondents beg to state that it is a fact that the Applicant submitted representation for regularisation of her ad-hoc service.

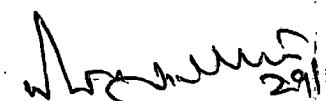
But exempting the Applicant from appearing in the qualifying exam is not within the powers of Respondents.

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


29/11/96
Declarant.

Asstt. Director of Census
Operations, Nagaland,
Kohima.



तार पता : स्टासेलकाम, नई दिल्ली
Telegraphic Address . STASELCOM, NEW DELHI

By Regd. Post

सं. 23/1/93-EHQ/4210017-18/Vol. I
No.

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भारत सरकार
कर्मचारी चयन आयोग
कार्मिक तथा प्रशिक्षण विभाग
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
ब्लाक सं. 12
केन्द्रीय कार्यालय परिसर, लोधी रोड
New Delhi-110003

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
Staff/15

To

Shri Emony Peseyie,
O/of 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.

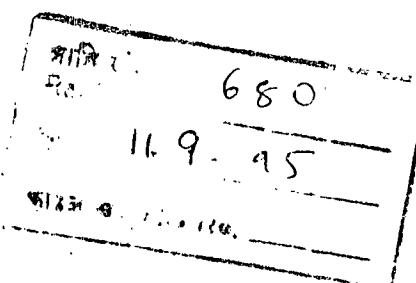
.....

Sir,

I am directed to refer to your letter No.A-11088/8/
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.& T.
OM No.28036/10/92-Estt(D) dated 2-8-1993 viz 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 fulfil
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,

RAM LAKHAN
(RAM LAKHAN)
Section Officer



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH,
GUWAHATI 19

1195
18.3.1997
0.4. 131/96

Smti. Shipra Chakraborty ... Applidant

- V_S -

The Union of India and others .

... Respondents .

(Affidavit on behalf of the applicant abovenamed)

I, Smti. Shipra chakraborty , wife of Shri P, Chakraborty aged about 35 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 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 g Guwahati to the said effect

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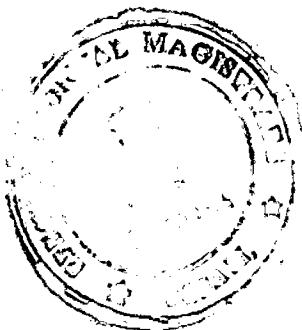
My advocate also informed me that he would not be in a position to attend the Kohima Bench and I should engage another Counsel at Kohima to conduct ~~xxxkohima~~ ~~xxx~~ my case . I was further stated in the said application that inspite of my best efforts , I could not engage another Advocate at Kohima 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 mistake and I shall suffer irreparable loss and shall be put to great hardship and inconvenience 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 .

6.7 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 submit an application praying for adjournment as he was under



: 3:

impression that I would be 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 .

Smt. Shifra Chakravorty,

DEPONENT

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

Identified by me :

Nived Kumar Das
Advocate .



⑩ 25.7.97.
Magistrate :: Guwahati.
Special Judicial Magistrate
Assam, Guwahati.