

Union of India and Others

Vs

Tara Chand Sharma and Others

Civil Appeals Nos. 9572-75 of 1995

(J. S. Verma, K. Venkataswami JJ)

19.10.1995

JUDGMENT

K. VENKATASWAMI, J.

1. Delay condoned.

2. Leave granted.

3. Heard counsel for both sides. The short question that calls for our consideration is whether Respondents 1-6 (hereinafter referred to as 'respondents') who were promoted temporarily in the posts created for a specific period can claim the right of continuance in said posts even after expiry of the said period. Brief facts are the following:

Respondents 1-6 who were the petitioners before the Central Administrative Tribunal were recruited as Assistant Compilers-LDCs during 1980 and were later confirmed in the same posts by Order dated 26-5-1989. During 1991 Census operations, 21 posts had been created on a short-term temporary basis after taking into consideration the increased quantum of work. The said posts have been sanctioned for fixed period and their continuation depended on the receipt of further sanction. Factually the aforesaid temporary posts created for 1991 Census were continued till December 1993 and from 1-1-1994 those temporary posts created as above, ceased to exist.

4. On the basis of the recommendations of a Departmental Promotion Committee, the respondents were promoted to the newly created temporary posts of Computers by Order dated 10-10-1990. It is true that the officer concerned has issued satisfactory completion of the probation by Order dated 12-4-1993 to respondents in the posts created for fixed period. It will be useful to set out the promotion order (which is common) dated 10-10-1990. It reads as follows:

"GOVT. OF INDIA MINISTRY OF HOME AFFAIRS Directorate of Census Operations, Rajasthan, Jaipur

No. 3958/F-48/Jan/Stha/75-II Dated 10-10-1990

OFFICE ORDER

On the recommendations of the Departmental Promotion Committee, the following Asstt. Compilers of this Directorate are promoted on a regular basis in temporary capacity on the post of computers in the scale of Rs. 1200-30-1560-EB-40-2040 from 11-10-1990 to 28-2-1991. (emphasis supplied)

1. Shri Tarachand Sharma
2. Shri B.L. Verma (A. JA)
3. Smt Asha Saxena
4. Shri Sunil Garg
5. Shri R.P. Verma

The above employees will remain placed on probation.

sd/- (S. Pathak) Dy. Director"##

5. The term fixed as above, was continued until the letter dated 30-11-1993 was circulated by the Registrar General informing all concerned that the sanction for temporary posts created in connection with the 1991 Census will end by 31-12-1993. The letter reads as follows:

"No. 2/4/90-RG (Ad. II)

GOVERNMENT OF INDIAN MINISTRY OF HOME AFFAIRS Office of the Registrar General, India 2A, Mansingh Road, New Delhi-11.

Dated 30-11-1993

All Directors of Census Operations [including DRG (Language) Calcutta]

Subject: Abolition of posts created in connection with 1991

Census - regarding

I am directed to say that all the posts which were created in connection with the 1991 Census are at present sanctioned up to 31-12-1993 only. Therefore, they will stand abolished on that date. In this connection, I am directed to request you to take consequential advance action in the matter. The proposals for extension etc. of these posts need not be sent.

Yours faithfully, sd/- (Chandra Prakash) Assistant Director"##

6. On the basis of the above letter, the impugned order which is common, reverting the respondents, came to be passed. It reads as follows:

"GOVERNMENT OF INDIA MINISTRY OF HOME AFFAIRS Directorate Of Census Operations, Rajasthan, Rambagh Palace Annexe, Jaipur.No. 4932/F-5/Cen/Estt/93-16 Dated 30-12-1993 OFFICE ORDER##

Consequent upon the expiry of sanction on 31-12-1993 of the posts created for the 1991 Census, the following officials of this Directorate who are working against the posts shown against their names in Column No. 3, on purely temporary basis, are hereby reverted on the posts shown against their names in Column No. 4 with effect from 31-12-1993 (Afternoon) :

#S.No. Name Present Post Past on Reversion1. Shri Rajendra Prasad Computer Assistant Compilor Verma2. Shri Sunil Kumar Garg Computer Assistant Compilor3. Smt Asha Saxena Computer Assistant Compilor4. Shri Babu Lal Verma (SC) Computer Assistant Compilor5. Shri Tara Chand Sharma Computer Assistant Compilor6. Shri Om Prakash Badaya Computer Assistant Compilor7. Shri Ramesh Chand Computer Assistant Compilor Bairwa (SC)8. Shri Mohar Pal Meena Computer Assistant Compilor (ST)##

All the above officials will continue to work in their present sections till further orders.

sd/- (R.C. Bhargava) Deputy Director (Head of Office)"##

7. This order of reversion was challenged by Respondents 1-6 before the Tribunal. The petitioners sought to sustain the impugned reversion order on the ground that the temporary posts created for a fixed term have been abolished and the juniormost computers were consequently reverted.

8. Though the abolition of temporary posts of Computers were brought to the notice of the Tribunal orally in the absence of any record (as the one produced before us namely, letter of Registrar General dated 30-11-1993), the Tribunal was not prepared to accept the statement that the posts temporarily created were abolished. In fact the Tribunal observed as follows:

"We have also been shown an order dated 13-8-1993 abolishing certain Group 'C' posts other than Computers in the Directorate of Census Operations. No such order for abolition of posts of Compilors (Sic) (Computers) has been produced before us, though in the counter filed by the respondents, it is indicated that 21 temporary posts of Computers were created for the purpose of 1991 Census which are no longer available after 1-1-1994."

Substantially on the above basis the Tribunal set aside the impugned reversion order.

9. Learned counsel appearing for the respondents, however, placed reliance on the fact of orders issued to the respondents regarding satisfactory completion of probation and contended that in view of such orders, the respondents cannot be reverted. We do not think that we can accept this contention of the learned counsel for the respondents. On the facts of this case, we have seen that the order of promotion itself in unmistakable terms indicated that the promotions were temporary and then the fact of abolition of posts created for fixed period is not in dispute. In any event, that fact of abolition of posts is now established by document produced before us, namely, the letter of Registrar General of India dated 30-11-1993 extracted above. In view of the established position that the posts temporarily created to which posts respondents were temporarily promoted having been abolished, the respondents cannot raise any objection for the consequential reversion orders. We answer the question posed in the beginning in the negative.

10. We make it clear that we are not called upon to decide the factual question whether any junior/juniors to the respondents were retained causing prejudice to the respondents, as this matter was left open by the Tribunal to be agitated independently.

11. In the result, we set aside the common order of the Tribunal and allow the appeals. There is no order as to costs.