

Govt. of T. N. and Another

Vs

G. Mohamed Ammenudeen and Others

Civil appeal No. 810 of 1998

(S. Rajendra Babu, R.C. Lahoti JJ)

28.09.1999

JUDGMENT

RAJEDRA BABU, J.: -

1. Census is conducted once in every ten years under the Census Act, 1948 in the country under the direction of the Registrar General and Census Commissioner of India. The Government of Tamil Nadu conducts the census operations under the Directorate of Census. For the purpose of census work, personnel are recruited through the employment exchange. After the census work is over their employment would come to an end inasmuch as such employees are taken on duty on a temporary basis. From 1971 onwards, on each occasion, on completion of the census work, on the request of the Registrar General and Census commissioner of India, certain benefits were given to the census workers, such as, top priority for recruitment to the posts of Junior Assistants, record Clerks, Peons, etc. and age relaxation of three years and rule of reservation while making appointments. Similar orders had been issued on each occasion after the census work was over at the instance of the Registrar General and Census Commissioner of India.

2. For the purpose of census operations which commenced in the year 1991 certain workers, including the respondents, were engaged on consolidated pay to carry out the census work for a period of 18 months from 1-2-1991 to 30-6-1992. After the completion of the census work, their services were terminated. On 15-5-1991, the State Government issued an order imposing a ban on recruitment of temporary employees, issued an order imposing a ban on recruitment of temporary employees, for a period of one year from that date, other than those who are sponsored by the Tamil one year from that date, other than those who are sponsored by the Tamil Nadu Public Service commission (hereinafter referred to as "the Commission"). This ban was continued for an indefinite period. The Registrar General and census commissioner of India, by a letter sent on 26-12-1991, requested the State of Tamil Nadu to take appropriate steps in absorbing the temporary workers employed in the census operations at the State level in its services and in the undertakings under its control. Similar request was made by the Director of Census Operations, Madras. The Services of the respondents in the present case who had been engaged as census workers were terminated or retrenched on 30-6-1992. Certain concessions were sought to be extended to the respondents in GOMs Nos. 341 and 444 but the concessions extended under the earlier order were withdrawn and more stringent condition were imposed for their absorption. The resultant position is that there was a ban on the recruitment of temporary employees through the employment exchange and recruitment of both temporary and permanent employees had to be made only from the list of persons sponsored by the commission. Thus, the temporary employees who were working in the Census Department and whose services were terminated also had to pass such qualifying examination conducted by the Commission.

3. In this background, the respondents filed an application before the Tamil Nadu Administrative Tribunal (hereinafter referred to as "the service or in any of the undertakings inasmuch as they had worked for 15 months continuously and they sought for a direction to absorb them as junior Assistants or Typists. The appellants resisted the said petition on the basis that the Tribunal does not employ in any civil post; that, in view of various government orders indicating the policy that that the respondents could not be recruited to the State Government service except on being sponsored by the Commission. The Tribunal, however, held that the appellants had absorbed the terminated temporary employees of the Census Department in 1971 and 1981 and GOMs Nos. 341 dated 13-12-1992 444 dated 23-12-1992 were subsequent to the one issued on 15-5-1991 imposing general ban on the recruitment of temporary employees sponsored by the employment exchange and, therefore, the subsequent GOMs issued for the specific category of employees would excluded the earlier GOMs and thus the respondents were entitled to absorption in the State Government and directed the State Government to consider their cases for such absorption within a period of two months. Hence this appeal by special leave.

4. Several contentions have been raised before us but in view of the stand taken now by the appellants, it is unnecessary to examine them. On 11-3-1999, when the matter came up before us, we heard the learned counsel on both sides at length and felt that considering the special features of the case, it would be appropriate for the State Government to frame a scheme to absorb the respondents and other employees, who were similarly placed and who have been retrenched. On the commencement of the census operations, persons who have registered themselves in the employment change get jobs in that Department. However, when the project is over, their employment would come to an end and they are retrenched thereby losing both the employment and their position in the queue in the queue in the employment exchange. Bearing this aspect in mind, the Government was asked to work out an appropriate scheme.

5. Now, Shri V. Krishnamurthy, the learned counsel for the appellants has brought to our notice that the appellants have issued an order GOMs No. 144 dated 11-8-1999 which takes not of the various aspects to which we have adverted to earlier for absorption of the respondents subject to the following conditions:

- (i) Retrenched employees of the Census Organisation in Tamil Nadu with not less than six months' service were placed in priority (iii) list under Group III for employment assistance through employment exchanges.
- (ii) A period of three years was ordered to be excluded in computing their age for appointment through the Tamil Nadu Public Service Commission and the employment exchanges, provided they had rendered temporary service of a t least six months in the Census Organisation of this State.
- (iii) The rule of reservation was to be followed in making the appointment of retrenched census employees.

6. However, it is brought to our notice that the condition in clause (i) above would impose hardship on the respondents if they are to be place in Group III and if they had to be placed in Group IV, condition in clause (ii) cannot be worked out at all because even if the period of three years stated therein is excluded the appellants will not get any benefit because their services had been put to an end in the year 1992 and over seven years have elapsed since then and, therefore, they cannot fulfil that condition at all. In the circumstances, we direct the State Government to modify the scheme in

respect of these two conditions. It would be appropriate for the State Government to delete these two conditions and all that may be insisted upon is that the retrenched employees of the Census Department should be placed in Group Iv and the condition relating to the exclusion of three years from their age shall be deleted. Subject to this modification, the Scheme proposed by the State Government may be worked out so as to absorb the respondents in services of the State Government or in any of the local authority or government undertaking as may be feasible as expeditiously as possible. This appeal stands disposed of accordingly.

7. Before parting with the case, we must put on record our appreciation for the very reasonable stand taken on behalf of the appellants and the learned counsel appearing in the case.