

UNION OF INDIA ETC.

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v.

TARA CHAND SHARMA AND ORS. ETC.

AUGUST 13, 1998

[MRS. SUJATA V. MANOHAR AND G.B PATTANAIAK, JJ.]

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*SERVICE LAW-Seniority—Post of Computers—Ad hoc appointments for 1981 Census—Regularisation of services of respondents 5 to 37—Respondents 1 to 4 temporarily promoted to those posts reverted from that cadre on abolition of posts—Reversion order upheld by this Court—Respondents 5 to 37 still continuing as Computers held as senior in the cadre.*

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For 1981 Census certain posts were created in the cadre of Computers. Respondents 5 to 37 were appointed against those posts but were continued even after the Census operation. Their services were regularised by the order of Registrar General in consultation with the Department of Personnel and Training by an order dated 12-3-1991, indicating that the past services rendered by them before regularisation would also count for their seniority as well as eligibility for promotion to the higher grade. Respondents 1 to 4 were promoted as Computers on regular basis between the period 20-8-1990 to 10-10-1990. In the seniority list drawn up on 12-4-1993, respondents 5 to 37 having been placed above respondents 1 to 4, a representation was made by respondents 1 to 4 which was rejected. However, the Administrative Tribunal holding that the *ad hoc* appointees were not entitled to get their services as *ad hoc* for the purpose of counting the seniority since the appointment itself was dehors the rules, held respondents 1 to 4 to be senior to respondents 5 to 37 in the cadre of Computers. These appeals had been filed against the decision of the Tribunal, the inter se seniority between respondents 1 to 4 and respondents 5 to 37 being the subject matter for consideration in the appeals.

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The promotion of respondents 1 to 4 to the post of computer being not on a substantive basis, after expiry of the sanction of the posts of Computer created for 1991 census, they were reverted on account of non availability of posts of Computer in the cadre. Though the Tribunal annulled the order of reversion, in appeal, this Court approved reversion of respondents 1 to 4, holding that the fact of abolition of posts having been established and

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**A** respondents 1 to 4 having been temporarily promoted to those posts, which had been abolished, they could not raise any objection for the consequential reversal order.

Allowing the appeals, this Court

**B** HELD : 1.1. Respondents 1 to 4 were no longer continuing as computers, their order of reversion having been upheld by this Court, the question of determining their inter se seniority with respondents 5 to 37 in the cadre of Computer would not arise. While respondents 5 to 37 are still continuing as Computers their services having been regularised by the order of Registrar General in consultation with the Department of Personnel, respondents 1 to 4 have been reverted from that cadre and therefore respondents 5 to 37 would be held to be senior in the cadre of Computers. [1182-A-C]

**C** 1.2. In view of the above, the question as to whether the order of Registrar General directing that the services of respondents 5 to 37 even prior to regularisation can be counted for the purpose of their seniority in the cadre need not be examined. [1182-B]

**D** CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 3946-3949 of 1988 Etc.

**E** From the Judgment and Order dated 24.8.95 of the Central Administrative Tribunal, Jaipur in O.A. Nos. 93, 121-122 and 172 of 1994.

Raju Ramachandran, (Hemant Sharma) for P. Parmeshwaran, for the Appellants in C.A. No. 3946-49/98.

**F** Surya Kant for the Appellant in C.A. Nos. 3950-53/98.

M.N. Krishnamani and Sudarsh Menon for the Respondents.

The Judgment of the Court was delivered by

**PATTANAİK, J.** Leave granted in all the Special Leave Petitions.

**G** The *inter se* seniority between respondents nos. 1 to 4 who had been promoted to the post of Computers on regular basis on 20.8.90 and 10.10.90 and the ad hoc appointees to the said posts respondent nos. 5 to 37 herein whose services were regularised on 14.3.1991 is the subject matter for consideration in these appeals. It transpires from the available materials on record that certain posts having been created for 1981 Census in the cadre

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of Computers respondents nos. 5 to 37 were appointed against those posts but even after the Census operation was over those posts continued and respondents nos. 5 to 37 were also continued. Ultimately the Registrar General of India after due consultation with the Department of Personnel and Training regularised those appointees by letter dated 12th March, 1991, and it was also indicated that the past services rendered by them before regularisation would also count for their seniority as well as eligibility for promotion to the higher grade. Respondents nos. 1 to 4, on the other hand, had been promoted as Computers on regular basis between the period 20th August, 1990 to 10th October, 1990. When the seniority list was drawn up on 12th April, 1993 respondents nos. 5 to 37 having been placed above respondents nos. 1 to 4 a representation was made by the said respondents nos. 1 to 4 the representation having been rejected they approached the Central Administrative Tribunal at Jaipur by filing OA Nos. 93, 121, 122 and 172 of 1994. The Tribunal by the impugned judgment being of the view that the ad hoc appointees are not entitled to get their services as ad hoc for the purpose of counting the seniority since the appointment itself was dehors the rules allowed these OAs and held that respondent nos. 1 to 4 to be senior to respondents nos. 5 to 37 in the cadre of Computer. It may be noticed at this stage that the promotion of respondents nos. 1 to 4 to the post of Computer was not on a substantive basis and after expiry of the sanction of the posts of Computer created for 1991 census on account of non availability of posts of Computer in the cadre, respondents nos. 1 to 4 were reverted. The said order of reversion was assailed before the Central Administrative Tribunal and the Tribunal had annulled the order of reversion. But the aforesaid order of the Tribunal being assailed in this Court by the Union of India in C.A. Nos. 9572-75 of 1995 by judgment dated 19th October, 1995 this Court came to hold that the fact of abolition of posts having been established and the respondents nos. 1 to 4 herein having been temporarily promoted to those posts, which have been abolished, they cannot raise any objection for the consequential reversal order. The order of the Tribunal was accordingly set aside and the appeal of the Union of India was allowed thereby. The order of reversion of respondents nos. 1 to 4 herein from the posts of Computer to their substantive post was approved by this Court. Though opportunity has been given to said respondents nos. 1 to 4 to indicate whether they are still continuing as Computer but no such assertion has been made. Though Mr. Krishnamani, learned senior counsel appearing for respondents nos. 1 to 4 contended that that would be a matter which would ultimately be decided only when the seniority matter is finalised we are unable to accept this contention since we find that the respondents nos. 1 to 4 are no longer continuing as Computers,

A their order of reversion having been upheld by this Court, as already referred to, and therefore, the question of determining their inter se seniority with respondent nos. 5 to 37 in the cadre of Computer would not arise.

B In the aforesaid premises, it is not necessary for us to examine the larger question as to whether the order of Registrar General directing that the services of respondents nos. 5 to 37 even prior to regularisation can be counted for the purpose of their seniority in the cadre. On the admitted position, therefore, while the respondents nos. 5 to 37 are still continuing as Computer their services having been regularised by the order of Registrar General in consultation with the Department of Personnel respondents nos. C 1 to 4 have been reverted from the said cadre and necessarily therefore, respondents nos. 5 to 37 would be held to be senior in the cadre of Computers. The impugned judgment of the Tribunal in the aforesaid OAs is set aside and the appeals of the Union of India are allowed and the OAs stand dismissed.

D The appeals arising out of SLP (c) Nos. 1113-1116 of 1996 for the reasons already indicated are also allowed. But in the circumstances there will be no order as to costs.

R.A.

Appeals allowed.