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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 360 of 2002

with

Original Application No. 335 of 2002

New Delhi, this the 5th day of April, 2003

HON'BLE MR. KULDIP SINGH, MEMBER (JUDL)

OA No. 360/2002

Ex. Subedar Dalip Singh (Retd.)
S/o Late Shri Bihari Lal
R/o Village Rajpura Khalsa
Post Boria Kamalpur, District Rohtak, Haryana
C/o Mahinder Kumar
H.No. 1418, Chulhewali Gali,
Sadar Bazar,
New Delhi-110 006.

...Applicant

OA No. 335/2002

Sub and Honorary Sub Maj. Budh Ram (Retd)
Village and P.O. Luhana, District Rewari,
Haryana
C/o Mahinder Kumar
H.No. 1418, Chulhewali Gali,
Sadar Bazar, New Delhi-6.

...Applicant

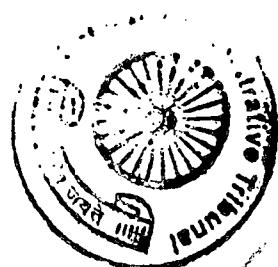
By Advocate: Shri A.K. Shukla.

Versus

1. The Union of India
Through its Secretary,
South Block,
Ministry of Defence,
New Delhi-110011.
2. Quarter Master General
Dy. Dte. Gen. Canteen Services,
Army Headquarters,
New Delhi-110001.
3. Chairman
Managing Committee Canteens,
HQ PH and HP (T) Sub Area
Ambala Cantt. 133001
4. Col. V.S. Kaushal (Retd.)
Director Canteens
HQ PH & HP (T) Sub Area
Ambala Cantt. -133001.

- RESPONDENTS

(By Advocate: Shri V.P. Ananad)



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O R D E R

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By Hon'ble Mr. Kuldip Singh, Member (Jud1)

By this common order I will decide two OAs bearing No. OA 360 and 335 of 2002 which have raised common question of law on facts.

2. The applicant in OA No. 360/2002 impugns the order of relieving him from the service of the Salesman, HQ PH & HP (I) Sub Area Golden Loin Canteen, Rewari arbitrarily on account of his completing 58 years of age. The respondents had issued a letter/order dated 29.12.2001 by which extension to the services of the petitioner had been denied, which allegedly actually amounts to compulsory retirement of the applicant without affording any opportunity or facing any inquiry. Thus the order dated 29.12.2001 is stated to be contrary to the law as held by the Hon'ble Supreme Court. Same is also the case of applicant in OA No. 335/2002 who also impugns the order of relieving him from the service of the Salesman from the same canteen issued in the same manner.

3. The facts in brief are that the applicant in OA 360/2002 had joined the military services as a Sepoy on 21.3.1961, wherefrom he retired on 31.8.1987. After his retirement the applicant was given an appointment in the Unit Run Canteen governed by the Ministry of Defence as a Salesman which he joined on 27.10.1988. Though initial appointment was for 89 days but his services were continued and last such sanction was given vide order dated 28.6.2001 when the applicant was granted extension



of service for a period of one year w.e.f. 23.7.2001 to 10.2.2002. The applicant further made an application for extention of his service. However, beyond the age of 58 years, the same was denied and the applicant was relieved.

4. Whereas applicant In OA 335/2002 had joined the military services as Gunner 21.5.63 and retired on 31.5.1991 and thereafter joined the Ministry of Defence as Salaesman on 29.5.93 and continued to work till he attained the age of 58 years and vide order dated 15.12.2001 he was also denied extension and relieved from service.

5. It is further stated that the Hon'ble Supreme Court in the case of Mohd. Aslam has held that the Employees of the Unit Run Canteen are to be considered as Government Employees and court had given further six months time to the respondents to frame separate rules for the services of the employees of Unit Run Cantens or adopt fundamental rules.

6. It is further stated that in some of the cases the respondents have given extention upto 60 years particulary to Ram Das Shakib and Lt. Col. Surjit Singh. Thus the applicants also claim that they are entitled to serve the canteen upto 60 years.

7. The respondents are contesting the OA. The respondents submitted that this court has no territorial jurisdiction. It is further stated that no cause of action has arisen at all at Delhi so this court has no jurisdiction.

8. It is further submitted that as per agreement of service between the parties the applicants could not have filed a petition without giving 2 months notice for



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listening to their grievances.

9. It is further stated that applicants were appointed on Salesman/Accountant on contractual basis for a period of 2 years and after that period when the applicants requested for extension on 23.7.2001 (OA No. 360/2002)/15.12.2001 (OA No. 335/2002) for a period upto 10.2.2002 (OA No. 360/2002)/14.1.2002 (OA No. 335/2002) on the same terms and conditions, the applicants fully knew well that their services were contractual and for a specified period which was extended from time to time.

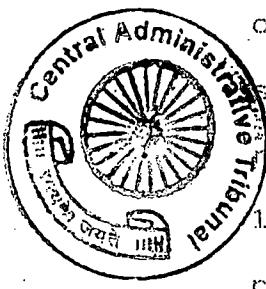
Their last appointment was upto 10.2.2002/14.1.2002 with a condition that this contract would automatically lapse.

10. It is further submitted that the terms and conditions of service can be continued only upto the age of 58 years so applicants cannot claim extension till the age of 60 years as a matter of right and there is no violation of any right, as alleged or otherwise at all.

11. It is further stated that though the Hon'ble Supreme Court has held that the status of the employees serving in Unit Run Canteens to be that of Government servant, but that by itself ipso-facts would not entitle them to get all the service benefits as is available to the regular Government servants or even their counter-parts serving in the CSD canteens and it would be open for the employers to frame separate conditions of service of the employees or to adopt the fundamental rules.

12. I have heard the learnt counsel for the parties and gone through the records of the case.

13. As regards the case of Mohd. Aslam Jis concerned, undoubtedly the employees were held to be Government employees but their service conditions or



rules are yet to be formulated. Applicant in OA 360/2002 was made to retire on 29.12.2001 and applicant in OA 335/2002 was made to retire on 15.1.2002 respectively whereas upto 27.9.2002 specific terms and conditions have not been framed particularly with regard to the extension of retirement age upto 60 years. Even on 29.8.2002 respondents were given 2 months time for framing the rules whereas the applicants had held retired under the terms/existing rules as on 15.1.2002 (OA 335/2002) and 29.12.2001 (OA 360/2002). The applicants have referred to a letter dated 27.9.2002 wherein canteens were directed not to terminate the services of Unit Run Canteen Employees but since the applicants had already retired so they ceased to be employee of Unit Run Canteens before the rules etc. were framed or even before the letter dated 27.9.2002 was issued so the applicants had been rightly made to retire under the old provisions.

14. In view of the above nothing survives in the OAs and the same does not call for any interreference. OAs are accordingly dismissed. No costs.

(KULDIP SINGH)
MEMBER(JUDL)

/Rakesh

