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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.821/2002
M.A.No.671/2002

New Delhi, this the 28th day of July, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)

1. Naresh Kumar
2. Virendra Kumar
3. Sursh Rai
4. Sikander
5. Raju
6. Arjun
7. Salam
8. Santosh Kumar

(All working as School Bus Conductors
under the Deptt. of Education
Air Force Station, Palam
Delhi Cant.

..Applicants

(By Advocate: Smt. Prasanthi Prasad)

Versus

1. Union of India
Represented by the Secretary
Ministry of Defence
South Block, New Delhi
2. Chief of Air Staff
Vayu Bhawan
New Delhi
3. Air Force Commanding
Air Force Station
Palam, Delhi Cant.
Palam
4. Station Education Officer &
Officer in Charge-School
Department of Education
Air Force Station
Palam, Delhi Cant.

..Respondents

(By Advocate: Shri M.K.Bhardwaj for Shri A.K. Bhardwaj)

O R D E R

Regularisation of their services as Civilian
Officers with attendant facilities of seniority and scale
of pay is the relief sought by the eight applicants in
this OA.

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2. Smt. Prasanthi Prasad and Shri M.K.Bhardwaj appeared for the applicant and the respondents respectively during the oral submissions.

3. MA-671/2002 for joining is allowed.

4. All the applicants are working since 1993 as Conductors in the school bus run and managed by the Air Force. All the buses belong to the Air Force with the drivers being civilian staff or from MTD and are under the control of the Department of Education, which are staffed by Air Force officers. The applicants are on duty from 6.30 AM to 5.00 PM daily on a five day week. They are working in the scale of Rs.1000-1500/- since March, 1998 and are getting DA and other benefits, though they have been granted only temporary passes. They have been praying for regularisation but to no avail and are presently apprehending termination of their services and replacement of others. Applicants are put to a lot of inconvenience on account of their non-regularisation, including denial of legitimate service benefits. Respondents are not acting as model employers. Various judicial pronouncements are in the applicants' favour (A.K.Jain & others v. Union of India, JT 1987 (4) SCC 45), nothing still has been done to regularise them, the applicants are forced to approach the Tribunal.

5. Grounds raised in the OA are that:-

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i) policy of ad hocism being adopted by the respondents was violative of Articles 14 & 16 of the Constitution,

ii) there was continuous requirement of bus conductors for the respondents and, therefore, the applicants' non-regularisation is unjust,

iii) threat being extended to applicants, who are experienced in the job was illegal,

iv) the applicants' non-regularisation and proposed termination are against constitutional guarantees; and

v) the action of the respondents ^{was} ~~are~~ illegal.

6. Applicants' pleadings are contested by the respondents. In terms of Air Force Instruction No.56/69, free transport is provided to the children of the Air Force personnel for going to school and back. To provide safety of travel, conductors have been engaged as need based part time arrangement. Such conductors are workers, who are being paid out of the contribution of the parents of the children availing the above service. Applicants have not at all been formally appointed and they are not even casual workers. Government policy does not call for appointment of bus conductors in the buses used for playing children and the present lot of applicants are working under a local arrangement and they cannot, therefore, claim any regularisation.

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7. Both the learned counsel reiterate their respective pleadings. According to Smt. Prasanthi Prasad, the engagement of the conductors have been to facilitate the performance of the duties of the respondents to provide free transport to the employees' children and, therefore, there was no reason not to treat them as similar to the drivers and/or others and regularise them. All the arguments raised by the respondents against the regularisation are incorrect and do, therefore, merit rejection. OA should, therefore, be allowed, Smt. Prasanthi Prasad urged. On the other hand, Shri M.K.Bhardwaj, learned proxy counsel points out that the applicants not having proved that they are engaged by the respondents cannot have any right for regularisation. OA should, therefore, be dismissed, pleads he.

8. I have carefully considered the matter. The applicants in this case - all eight of them - are presently working as conductors in the buses in which the children of the Air Force personnel are transported to and back from the school. The buses belong to the Air Force and the drivers are also the employees of the civilian Air Force. The applicants, who are working as conductors are not enrolled as civilian employees of the Air Force but are demanding that they be regularising keeping in mind the fact their services are essential services, without which the buses cannot be successfully plied. The submissions of the learned counsel for applicants is that the conductors are performing an essential duty which was specific function of the Air Force Establishment, as far as the children of the staff are concerned. On examination of the issue, I am not

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convinced that the applicants have a case. All these applicants are persons who are locally recruited and whose emoluments are paid out of funds provided by the parents of the children who avail themselves of the transportation facilities by the bus. That being the case, they cannot be considered as part of the Air Force Establishment. The fact that the buses are controlled by the Air Force Organisation or that the drivers are civilian employees of the Air Force does not alter the situation. Unless and until the applicants are paid from the Defence funds and are formally engaged as the employees of the Defence Organisation, they cannot get the benefit of any refixation. Presently they are only the employees working in an informal arrangement receiving their emoluments in a private arrangement. The reliance placed by the learned counsel for applicants on the decision of Hon'ble Supreme Court in Union of India & others v. M. Aslam & others, (2001) 1 SCC 720 would not come to applicants' assistance as the circumstances are different. Unless and until the applicants are able to show that they have an inherent right for being considered for regularisation, which would come their way only if they are borne on the Air Force rolls, the Tribunal cannot intervene on their behalf. As long as the employment of these individuals are controlled by totally private sources by the contribution from the individual families of the enrolled persons and not by the Air Force Organisation, they cannot get any benefit from this Tribunal.

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8. OA, in the above circumstances, fails and is accordingly dismissed without any order as to costs.

(Govindan S. O. Tampi)
Member (A)

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