

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.1988/2002
M.A.No.1631/2002

Hon'ble Shri V.K.Majotra, Member(A)

Tuesday, this the 30th day of July, 2002

1. Shri Parmod Kumar Jha
Sand No.85564 TNC.
2. Shri Jagdish
Sand No.9697.
3. Shri Sudershan Ram
Sand No.19155/DV.
4. Shri Thakur Prashad
Sand No.8726.
5. Shri Ram Bahadur. Applicants

(By Advocate: Shri Sundheshwar Lal)

Vs.

1. Govt. of N.C.T. Delhi
through The Chief Secretary
Govt. of N.C.T. Delhi
5, Sham Nath Marg
Delhi.
2. The Commandant General
Home Guards & Civil Defence
CTI Building, Raja Garden
New Delhi.
3. The Commandant
Delhi Home Guards, CTI Buildings
Raja Garden
New Delhi. Respondents

O R D E R (Oral)

By V.K.Majotra, M(A):

Heard the learned counsel.

2. Applicants seek direction for re-engagement as a member of Home Guards as regular employees and challenge discharge orders from their services under Rule 8 of Delhi Home Guards Rules, 1959 (for short as "Rules of 1959"). Learned counsel stated that these applicants were initially recruited for a period of three years and thereafter their

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services were extended from time to time, and have worked continuously with the respondents for eight to fourteen years. Learned counsel stated that respondents have terminated the services of these applicants in violation of the provisions contained in Rule 8 of Rules of 1959. Previously these applicants are stated to have filed OA No.1753/97, on the same facts and grounds, which was disposed of on 25.11.1999. Learned counsel stated that the OA was disposed with the following directions:

"(i) Respondents are directed to review the cases of the applicants, to determine the following:

- (a) The actual period of their engagement as Home Guards on the basis of their call out orders;
- (b) Whether these applicants have been engaged without break throughout their appointment with reference to actual response records as filed by the respective unit heads;
- (c) how the applicants were engaged without formal letters of their renewal of the terms of appointment from time to time and who were responsible for such indiscriminate appointment without authorisation; and
- (d) the aforesaid review may be completed within a period of three months from the date of the receipt of the order.

(ii) Till the aforesaid review is completed, the applicants should be served with terms of re-appointment, as applicable in their individual cases upto the dates they would have continued had they been given normal renewal of their term of appointment from time to time starting from the day they were appointed. Order of the term of re-appointment should be issued after obtaining a declaration regarding their unemployed status.;

(iii) On the basis of the aforesaid review, if in any case, it is considered that they are no longer required, they should be served with due notice, on completion of the review in their case.

(iv) The review of the cases of the applicants individually as in (ii) and (iii) above, should be completed within a period of 3 months from the date of receipt of a copy of this order, and till that time, the appointments may be deemed to have been continued on the usual terms and conditions.

3. The respondents are directed to lay down appropriate policy/guidelines according to which the reliefs granted above is implemented in an appropriate manner and in the light of the instructions cited above within a period of 3 months and till that time the petitioners will be continued to be paid as before, and none of the petitioners will be entitled to arrears of payment till expiry of the said 3 months. In case of any further delay in formulating the details of scheme on their own, the respondents shall be liable to pay from the date of expiry of two weeks thereafter an equal payment as that has been paid to the regularly employed corresponding personnel of various departments of the respondents.

The relief given in this para also will be subject to the review to be held as per the directions above and the respondents while laying down the policy/guidelines/scheme, as referred to in this para, the reliefs granted by the administrative Member at Clause (iv) and (v), shall also be complied with. That is fresh engagement and regular appointments shall be made only keeping in mind the additional directions given in clause (iv) and (v).

"(iv) Any fresh engagement of Home Guards will have to be strictly in accordance with the provisions of Home Guards Act and Rules and these Home Guards have to be given proper term of appointment and the guidelines on engaging unemployed people should be strictly enforced.

(v) Regular appointment and renewal of terms of appointment have to be done strictly on the basis of a fair assessment of the need for such appointments and renewal should not be restored to so as to take away the voluntary nature and general objectives of the organisations."

4. Total time limit for implementation of our order, therefore, shall be six months, i.e., three months for review and additional three months for formulation of policy/guidelines."

3. Learned counsel also places reliance on order dated 1.6.1995 in OA 1188/95 (Annexure-A5). He also drew my attention to Annexure-A8(C), an advertisement published in August, 2000, for recruitment of Home Guards. The learned counsel stated that applicants had not made any application in response to that advertisement. He further mentioned that certain persons like the applicants had filed OA 2080/2001 (Annexure-A8) which was decided by this Tribunal on 1.4.2002 with the following directions:

6. This OA is disposed of with the directions that the applicants shall file a representation to the respondents, detailing their pleas. This OA can be the enclosure to the representation, along with this order. This shall be done within a fortnight from the date of receipt of a copy of this order. Respondents shall, within a month of such receipt, considered the application/presentation in accordance with law, with specific reference to the decision of the Tribunal dated 5.3.2002 in OA No.270/2002, and communicate the decision to the applicants. Applicants shall come up before the Tribunal, if they are still aggrieved and their OA will not be barred by limitation. No costs."

4. Learned counsel stated that the present applicants also made a representation to respondents vide Annexure-A8(A) dated 10.5.2002 like the applicants in OA 2080/2001 seeking reinstatement as

Home Guards. The respondents responded to the applicants vide Annexure-A8(B) dated 3.6.2002 rejecting their request for re-enrollment telling them to apply for enrollment in response to advertisement for enrollment in Delhi Home Guards as and when made by them.

5. Applicants have sought quashing and setting aside of the impugned discharge orders and directions to respondents to reinstate and regularise their services.

6. Rule 8 of Rules of 1959 reads as follows:

"Term of Office - The term of office of a member of the Home Guards shall be 3 years.

Provided that the appointment of any such member may, at any time, be terminated by the Commandant General or the Commandant, as the case may be, before the expiry of the term of office -

- (a) by giving one month's notice or
- (b) without such notice if such member is found to be medically unfit to continue as a member of the Home Guards."

7. Applicants in OA 1753/97, which was

decided vide orders dated 25.11.1999, Annexure-A9

1b were persons who were allowed to continue in service beyond their tenure of three years without fresh orders of extension in tenure or re-engagement, Services of 1b, however, the present applicants were terminated on expiry of three years. Their tenure was not extended or they were not re-engaged. The facts of the present

1b

case being entirely different ~~than~~ those of OA No.1753/97, the decision in that case is not applicable to the present case.

8. Learned counsel stated that applicants had not made any application in response to advertisement published in August, 2000. They only made a representation like the applicants in OA 2080/2001, which has been rejected by the respondents. The respondents have asked them through Annexure-A8(B) dated 3.6.2002 that applicants should apply for enrollment as and when advertisement is issued by the Directorate General of Home Guards. Applicants have not done that, and approached this Court for quashing and ^{setting} ~~set~~-aside of the orders of termination of their services. Their services have been terminated in terms of Rule 8 of Rules of 1959 on completion of applicants' tenure.

9. I have considered the pleas made by the learned counsel and I find that there is no infirmity in the order of termination of the services of the applicants, who had completed their tenure and whose tenure had not been extended.

10. Having regard to the reasons recorded and discussion made above, finding no merit in this OA, the same is accordingly dismissed in limine. No costs.


(V.K. Majotra)
Member(A)