

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member (J)

- OA No. 883/2016** Harasa Barik, aged about 43 years, S/o Late Arjun Barik, at present working as a Barber under Commanding Officer, INS Chilka, permanent resident of Vill.-Chatragad, PO-Chilika, via/PS-Balugaon, Dist.-Khurda, Odisha.
- OA No. 884/2016** T. Krishna, aged about 41 years, S/o. Late T. Demudu, at present working as a Barber under Commanding Officer, INS Chilka, permanent resident of Vill./P.O.-Gedelavani Palem, P.S.-L. Kota, Dist.-Vijayanagaram, Andhrapradesh.
- OA No. 885/2016** A.Nageshm, aged about 32 years, S/o. A. Babu Rao, at present working as a Barber under Commanding Officer, INS Chilka, permanent resident of Vill./P.O./P.S.-Kharagpur, Dikst.-Paschim Medinapur, West Bengal.
- OA No. 892/2016** Prahallad Nayak, aged about 46 years, S/o. Maguni Nayak, at present working as a Barber under Commanding Officer, INS Chilka, permanent resident of Vill./P.O.-Bikrampur, Via/P.S.-Khalikot, Dist.-Ganjam.
- OA No. 893/2016** Narayan Dakua @ N. Dakua, aged about 45 years, S/o. Dayanidhi Dakua, at present working as a Barber under Commanding Officer, INS Chilka, Dist.-Khurda, permanent resident of At/P.O.- Gahangua, Via- Balipadar, P.S.-Buguda, Dist.-Ganjam.
- OA No. 894/2016** T. Sriramulu, aged about 55 years, S/o. Late Ramulu, at present working as a Barber under Commanding Officer, INS Chilka, permanent resident of Vill.-Sirikipalem, P.O.-Alamanda, Via/P.S.-Jami, Dist.-Vijayanagaram, Andhrapradesh.
- OA No. 967/2016** Dinabandhu Dakua @ D.Dakua, aged about 39 years, S/o Dayanidhi Dakua, at present working as a Barber under Commanding Officer, INS Chilka, permanent resident of At/PO-Balipadar, PS -Buguda, Dist.-Ganjam.

VERSUS

1. Union of India, represented by the Secretary, Ministry of Defence, South Block, New Delhi- 110001.
2. Chief of the Naval Staff, Integrated Headquarters of Ministry of Defence (Navy), Sena Bhawan, New Delhi- 110011.
3. Flag Officer, Commanding-in-Chief Head Quarters, Eastern Naval Command, Naval Base, Vishakapatnam, Andhra Pradesh- 530014.
4. Commanding Officer, I.N.S.Chilika, At/PO-Balugaon, Dist.- Khurda-752037.

.....Respondents.

For the applicants: Mr.N.R.Routray, counsel

For the respondents: Mr.D.K.Mallick, counsel (OA 967/16)
Mr.A.C.Deo, counsel (OA 884/16, 894/16, 892/16,
885/16, 893/16)

Heard & reserved on : 19.12.2019

Order on : 09.01.2020

O R D E R

Per Mr. Gokul Chandra Pati, Member (A)

All these OAs have been filed by the applicant praying for similar reliefs on similar grounds. Hence, the OAs in this batch were considered together and are being disposed of by this common order, for which the OA No. 883/2016 is being taken as the lead OA.

2. In OA No. 883/2016, the applicant has prayed for the following reliefs :-

- “(i) To direct the Respondents to regularize service of the applicant as a Barber retrospectively w.e.f. March, 1993 with all consequential service benefits;

And pass any other order as this Hon’ble Tribunal deems fit and proper in the interest of justice.

And for which act of your kindness the applicants as in duty bound shall ever pray.”

3. The applicant in OA No. 883/2016 claims to have been engaged as a Barber under the Respondent No.4 in 1993 after selection following the due procedure. He is aggrieved since in spite of the fact that he has worked for more than 22 years, his case for regularization has not been considered by the respondents.

4. The respondents, in their counter, have stated that the applicant was engaged for cutting hair of the trainees from ‘non-public funds’ as there was no approval of Government for the post of Barbers for the trainees under the respondents and the said engagement was done without following proper selection process as there was no post. It is stated that since the applicant was not engaged as an employee under the Government of India, the present OAs in the batch are not maintainable. The order dated 24.5.2016 of Ernakulum Bench of the Tribunal in OA No. 611/14 has been enclosed at Annexure-R/1 of the Counter in support of the submission regarding maintainability of the OA. It is further stated that the issue of an entry pass to the applicant does not prove that the applicant had been employed as Government servant. A Barber Fund contributed by the employees/trainees was there, from which the persons engaged as Barber are paid for cutting the hair of the trainees and the account has been maintained by the officer-in-charge of the Barber Fund.

5. Rejoinder has been filed by the applicant stating that if there was regular work as a Barber, then such posts should have been sanctioned by the respondents for proper functioning of the organization. It is also stated that there are instructions available for proper utilization of Barber and Laundry funds, which show that the applicant was indirectly being paid from the funds of the Ministry of Defence. The applicant has cited the order dated 2.9.2014 of Hon'ble High Court passed in W.P. (C) No. 14340/2014 for maintainability of the OA.

6. Heard learned counsel for the applicant and the respondents. Learned counsel for the applicant at the time of hearing filed a Memo in all the OAs in this batch (except in the OA No. 967/2016), stating that the respondents have assured the applicants to enhance the charges for hair cutting and not to disengage them and in view of the assurances of the respondents, learned counsel for the applicant does not want to press the OA.

7. Learned counsel for the respondents submitted that as stated in the Counter, the OA is not maintainable as the applicants in these OAs are not directly engaged under the Government.

8. In the circumstances, the OA No. 883/2016 is disposed of as not pressed by the applicant. It is clarified that no opinion on the points/issues raised by both the parties on maintainability as well as the merit of the OA has been expressed by us while disposing of the OA. There will be no order as to costs.

9. In OA No. 967/2016, the applicant has prayed for the same reliefs as in OA No. 883/2016. Although no separate Memo has been filed by learned counsel for the applicant in OA No. 967/2016, he submitted that he does not want to press this OA (No. 967/16) also for the same ground as stated in the Memo filed in the OA No. 883/2016. Accordingly, the OA No. 967/2016 with similar facts and circumstances as in the OA No. 883/2016 is also disposed of as not pressed by the applicant in terms of paragraph 8 of this order.

10. For the reasons mentioned above, other OAs in this batch are also disposed of in terms of paragraph 8 of this order with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)