

Central Administrative Tribunal
Principal Bench

O.A. No. 381 of 2001

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New Delhi, dated this the 12th September, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Mani Ram,
House no. 28, DDA Flat, LIG,
Pul Pahladpur
On Surajkund Road,
New Delhi-110044. .. Applicant

(By Advocate: Shri J.B. Buther)

Versus

1. Union of India through
the Secretary,
Ministry of Defence,
Government of India,
South Block,
New Delhi.
2. The Quartermaster General,
Army HQ and
Chairman, Governing Body,
Army Headquarters Canteen,
New Delhi-110011.
3. Brig. Mohinder Singh,
C/o Major General Mathew Mammen,
ADG OL II,
QMG Branch, Sena Bhawan,
New Delhi-11001.
4. The Chairman,
Managing Committee,
Army Headquarters Canteen,
OL-II, DTE, 3rd Floor,
A Wing, Sena Bhawan,
New Delhi-110011. .. Respondents

(By Advocate: Shri G.K. Sharma)

ORDER (Oral)

S.R. ADIGE, VC (A)

Applicant impugns respondents' order dated
23.7.98 terminating his services in terms of
condition No. 2(c) of the appointment letter dated
1.3.1995 (Ann. A-4).

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2. It is not denied that pursuant to the aforesaid appointment letter dated 1.3.1995 applicant has been confirmed in the post of Assistant Manager, Army Headquarters Canteen vide respondents' letter dated 15.11.95 (copy taken on record).

3. In so far as the question of CAT's jurisdiction to entertain the present O.A. is concerned the Hon'ble Supreme Court in its judgment dated 4.1.2001 in Union of India & others Vs. M. Ashlam & Others has conclusively held that CAT would have jurisdiction to entertain applications by employees working in unit-run canteens, such as the present applicant. Hence the question of the Tribunal's jurisdiction to entertain this O.A. is beyond doubt.

4. It is not denied that applicant's services were terminated by impugned order dated 22.7.98 without holding any disciplinary enquiry, in which applicant was given a reasonable opportunity of being heard.

5. In this connection our attention has been invited by applicant's counsel to the Hon'ble Supreme Court's judgment in Uptron India Limited Vs. Shammi Bhan & Anr. 1998 (6) SCC 538, in Para 15 of which it has been held that conferment of permanent status to an employee guarantees security of tenure, and the service of an employee enjoying permanent status cannot be terminated abruptly and arbitrarily either

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by giving him a month's notice, or pay in lieu thereof, or even without notice, notwithstanding that there may be a stipulation to that effect either in the contract of service or in the Certified Standing Orders.

6. Respondents have relied upon Para 2(c) of the aforesaid appointment letter dated 1.3.95, which provides that even after confirmation, applicant's services are liable to be terminated upon one month's notice or pay in lieu thereof, to terminate his services without holding any inquiry, but having been confirmed as Assistant Manager, applicant has been conferred permanent status. Under the circumstance, having regard to the Hon'ble Supreme Court's judgment in Shammi Bhan's case (supra) applicant's services could not have been terminated without holding an enquiry, and reliance on the aforesaid Para 2(c) does not avail respondents.

7. Applicant's counsel has taken various other grounds to challenge the aforesaid order, but in our view the foregoing discussion itself is sufficient to warrant judicial interference in this O.A.

8. In the result the O.A. succeeds and is allowed to the extent that the impugned order dated 22.7.98 is quashed and set aside. Applicant should be reinstated in service with such consequential

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benefits as are admissible to him in accordance with rules, instructions and judicial pronouncements within one month from the date of receipt of a copy of this order. It will be open to respondents to proceed against applicant in accordance with law, if so advised. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

karthik