

11.1.99

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O.A. No. 1537/98

M.A. No.

Present: Shri U. Srivastava for applicant
Shri K.R. Sachdeva for respondents

Shri Srivastava states that he will be filing rejoinder in the Registry in the course of the day. A copy of the same has been handed over to respondents' counsel who acknowledges the same.

List for PFH on 19.1.99.

(S.R. Adige)
VC (A)

/GK/

OA not admitted
Pleading Complete
I-Relief

20-1-99

Present: Sh. U. Srivastava counsel
for the appl.
Sh. R.K. Sachdeva counsel
for the respts.

Both heard, order reserved
by a S.B. Bench of Hon'ble Sh. R.K. Ahuja
me(A) in court no V

Bo
V Co - CV

OA 1537/98
02-2-99

Order pronounced today
in open court no V, OA partly
allowed by a S.B. of Hon'ble Sh. R.K. Ahuja
me(A)

Bo
V Co - CV

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1537/98

New Delhi this the 2nd Day of February 1999.

Hon'ble Shri R.K. Ahooja, Member (A)

Hriday Ram,
Son of Shri Ram Newal,
Govt. of India Press Canteen,
Ring Road, Maya Puri,
New Delhi-110 064 Applicant

(By Advocate: Shri U. Srivastava)

-Versus-

1. The Secretary (Canteen),
Govt. of India Press,
Ring Road, New Delhi-110 064.
2. The Manager,
Govt. of India Press,
Ring Road, Maya Puri,
New Delhi-110 064. Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

LSY

The applicant claims that he was initially engaged as a Helper in the Govt. of India Press, Mayapuri, Canteen in 1990. His services were regularised by the order of the Respondents vide their letter dated 6.2.1986, Annexure A-2. He states that he recently came to know that a section of Canteen/tiffin room employees had filed a Writ Petition before the Hon'ble Supreme Court seeking parity with the Central Govt. Employees and the said writ had been finally decided in their favour. In pursuance of the direction of the Hon'ble Supreme Court dated 29.1.1992 orders as per annexure A-5, have been issued placing the canteen employees on par with the Central Govt. employees of equal status. The applicant's grievance is that though he was equally

eligible for

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same benefit has not been extended to him. He has, therefore, come before the Tribunal seeking a direction to the respondents to grant him the benefit of their OM dated 29.1.1992 and also allow him the arrears in the shape of pay and allowance.

2. The respondents in their reply have annexed a copy of the OM dated 11.10.1991 on the subject of implementation of the judgement of Supreme Court regarding employees of statutory canteens of the Govt. of India Presses and have stated that the employees of the Statutory canteens were to be declared as Govt. servants if they were in position as on 29.8.1985 provided they were within the strength fixed for each canteen. They state that the benefit of the Supreme Court orders are applicable only to such of the employees who were in position on 29.8.1985, and as the applicant was not on the strength of the Press on that date and he had been engaged as casual worker only in 1986 without the approval of the Government, hence, he cannot claim regularisation.

3. I have heard the counsel. The learned counsel for the respondents drew my attention to the OM dated 9.4.85, Annexure R-2, which states that the employees in the statutory canteens will not be treated as Government Servants but the expenditure on their salaries will be borne by the Department. It has further been provided in Para 2 thereof that no additional staff is to be employed without prior approval of the Directorate of Printing, Govt. of

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India. In case of the applicant, the respondents say that the appointment was made by the Management Committee and not by the Department and the prior approval of the Directorate was also not obtained. The salary which the applicant is receiving is also not charged to the Government account. For this reason, the learned counsel submitted that the applicant could not be considered for regularisation as a government servant.

4. I find that though the respondents have laid emphasis on the O.Ms dated 11.10.1991 and 9.4.1984; annexed as R-1 and R-2 to their reply, they have stated nothing about their O.M. dated 29.1.1992 which is annexure A-5, to the O.A. According to this O.M. which is on the basis of the final orders of the Hon'ble Supreme Court dated 11.10.1991 even employees of the non-statutory departmental/cooperative canteen located in the Central Government Offices should be treated as government servants w.e.f. 1.10.1991. ~~Even~~ On the admission of the respondents themselves, the applicant has been continuously working in the Statutory Canteens of the Presses since 1986. If he has been allowed to work for such a long period of 10 years, he cannot be deprived of the benefit which now extends even to the employees of the non-statutory Canteens, ^{where} ~~where~~ the Government was only providing the subsidy.

5. According to the learned counsel for the respondents, only a strength of 9 employees had been allowed to the canteen where the applicant is working.

10

and 9 persons have already been regularised and treated as Government servants w.e.f. 1995. He could not, however, state as to whether all those 9 persons are still working or some of them have since retired.

5. In the conspectus of the above discussion, I partly allow the O.A. with the direction to the respondents to consider the case of the applicant for regularisation as a government servant in accordance with the orders dated 11.10.1991 read with O.M. dated 11.1.1992. The regularisation will only take effect from the date that the applicant can be accommodated within the sanctioned strength of 9 employees on the basis of his seniority with reference to his admitted date of engagement w.e.f. 6.2.1986. The applicant will, however, be entitled to difference of salary enhanced from the date not earlier than one year of filing this O.A. i.e. 10.8.1998

R.K. Ahooja
(R.K. Ahooja)
Member (A)

Mittal