

2
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI
3

OA No. 1564/98

New Delhi, this the 5th day of April, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P.BISWAS, MEMBER (A)

Shri Mani Ram,
House No. 354, DDA,
Pul Prahaladpur,
on Surajkund Road,
New Delhi

...Applicant

(By Advocate: Shri J. Buther)

Vs.

Union of India through

1. The Secretary,
Ministry of Defence,
Department of Defence,
South Block, New Delhi.

2. The Quartermaster General,
Army HQA and Ex-officio,
Chairman Governing Body,
Army Headquarters Canteen,
3rd Floor, QMG Branch,
New Delhi.

3. Brig. Mohinder Singh
c/o Major General Methew,
Mommen, ADG,
DDG OL-II, QMG Branch, Sena Bhawan,
New Delhi.

4. The Chairman,
Management Committee,
Army Headquarters Canteen,
OL II DTE, 3rd Floor,
Ag Wing, Sena Bhawan,
New Delhi.

...Respondents

(By Advocate: Col. G.K. Sharma)

O R D E R

Hon'ble Shri T.N.Bhat, Member (J)

Shorn of unnecessary details the claim of the applicant in this OA filed under Section 19 of the Administrative Tribunal Act, 1965 is that he is a Central Government employee having been appointed as Assistant Manager in the Unit-run canteen at Army Headquarters, New

4.99

Delhi and that the order of termination dated 22.7.1988 passed by respondent no. 3 herein is illegal, arbitrary and violative of Article 14 of the Constitution of India. By the aforesaid order the services of the applicant have been terminated by invoking clause 2-C of the appointment order dated 1.3.1995. According to the applicant such a condition whereby the appointing authority reserves to itself the right to terminate the services of the employees at any time even without notice and without assigning any reason offends the Constitution as held by the Apex court in M/s Uptron India Limited vs. Shammi Bhan & Anr. (JT 1998(3) SC 47).

2. The respondents have resisted the OA mainly on the ground that the applicant is not a central government employee and that this Tribunal has no jurisdiction to entertain the O.A.

3. We have heard the learned counsel for the parties and have perused the material on record.

4. It is not seriously disputed by the applicant that the employees of the Unit-run canteen at Army Headquarters are not being paid out of the consolidated fund nor does the Government incur expenditure of the canteen out of its own funds. It is, however, asserted by the applicant that the Unit-run canteen at Army Headquarters is an instrumentality of the State (Central Government) and, therefore, its employees hold civil posts. In support of this contention learned counsel for the applicant has cited certain judgements apart from the judgement of the Apex Court already mentioned hereinabove. The Jodhpur Bench of the Tribunal has held in Rajinder Jagarwal & 18 Ors. Vs.



Union of India & Ors, vide the judgement reported in 1996 (I) ATJ 376 that the defence services are also covered by Article 309 of the Constitution and that canteen employees under the Army and Air Force Stations are the holders of civil posts. So far as the above judgement of Jodhpur Bench is concerned the same ~~should not be considered to have~~ been overruled by a later Full Bench judgement of the Tribunal in Dambar Singh Rathore & Ors. vs. Officer Commanding (Details) & Ors, reported in (1997) 36 ATC 440 wherein it has been specifically held that the Tribunal has no jurisdiction to hear the grievances of the employees of unit- run canteens and that such employees are not entitled to protection under Article 311 of the Constitution. In the aforesaid judgement the Jodhpur Bench judgement in Jagarwal's case (supra) was also referred to but overruled. Another judgement holding the contrary view in Mohan Singh Bisht vs. Chairman, CSD Canteens (OA 60/91) of Allahabad Bench of the Tribunal was approved, and the conflict of decisions was resolved by holding that the view expressed in Rajinder Jagarwal (Supra) was not the correct view. This view of the Full Bench is based upon several judgements of the Apex Court, notably those delivered in Kanpur Suraksha Karamchari Union vs. UOI, reported in (1988) 4 SCC 478, M.M.R. Khan vs. Union of India, reported in (1991) 16 ATC 541 and Parimal Chandra Raha vs. LIC, reported in (1995) 40 ATC 282. The judgement of the Apex Court in Reserve Bank of India vs. Workmen, reported in (1996) 3 SCC 267 was also referred to and relied upon in the Full Bench judgement (supra). In conclusion the Full Bench has held:

Luwan

"Applying the same principles in the present case, we are of the view that in the absence of any statutory or other legal obligation and in the absence of any right in the Defence Establishment to supervise and control the work or the details thereof in any manner regarding the canteen workers employed in Unit-run canteens it cannot be said that the relationship of master and servant existed between the Defence Establishment of the Govt. and the various persons employed in the Unit-run canteens."

5. The Full Bench overruled the decision of the Jodhpur Bench in Rajinder Jagarwal's case (Supra) and held that the employees of Unit run canteens are not central government servants and the Tribunal has no jurisdiction to hear the grievances of the employees of the Unit-run canteens. The aforesaid judgement has set at rest the conflict of views between various division benches of the Tribunal and this question is no longer res integra.

6. As regards the judgement of the Apex Court in M/s Uptron India Limited (supra) it would suffice to say that in that case it was established from the records that the aforesaid company was wholly owned by the Government of Uttar Pradesh and, therefore, the employees thereof were public servants whose services could not be terminated summarily without following the principles of natural justice and the rules framed by the competent authority.

W.M.

{ 5 }

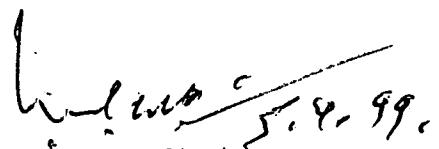
(52)

7. In view of what has been held and discussed above we hold that the jurisdiction of this Tribunal to entertain this OA is barred as the employees of Unit-run canteens are not Central Government employees so as to attract the application of the Administrative Tribunal Act, 1985.

8. Viewed as such this OA is dismissed on the ground of lack of jurisdiction.



(S.P.Biswas)
Member (A)



5.4.99.

(T.N.Bhat)
Member (J)

na