(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1929/98
OA No. 1951/98
OA No. 2133/98
OA No. 2286/98
OA No. 2420/98

New Delhi, this the 18th day of February, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)

HON'BLE SHRI R.K.AHOOJA, MEMBER (A)

OA No. 1929/98

Sh. Mohinder Kumar Jain
s/o Sh. Chiranji Lal Jain,
R/o A-100/211, Near Mam Singh Market,
South Gammri, Delhi-53

OA No. 1951/98

1. Sh. Shyam Babu s/o Sh. Yad Ram.
R/o D-6/215, Gokulpuri,
Delhi.

2. Sh. Khazan Singh s/o Ram Swaroop,
R/o H.No. 233, Gali No. 6, Indra Vihar,
Delhi.

3. Sh. Gopal Singh s/o Raghbir Singh,
R/o H.No. 280, Gali No. 13, Karavan Nagar,
Delhi.

4. Sh. Sukey Khan s/o Babu Khan,
R/o F-81, Ganga Vihar,
Gokul Puri,
Delhi.

OA No. 2133/98

1. Sh. Shyam Lal s/o Banwari Lal
R/o C-I/317, Nand Nagri,
Delhi.

2. Sh. Lekh Raj Singh s/o Nanak Chand,
r/o H.No. 224, Village Johar Puri,
Delhi.

3. Sh. Rajesh Kumar s/o Dharampal Singh,
r/o House No. A-126, Gali No. 4,
Village Johar Puri, Delhi.

4. Sh. Brij Kishore s/ o Prem Raj,
r/o H.No. K-99, Gali NO. 8,
Adarsh Mohalla, Mauj Pur, Delhi.

5. Sh. Abheda Nand Jha s/o Mod Narain Jha,
r/o H.No. D-32, Mukund Vihar,
Karawal Nagar, Delhi.

18.2.99.

OA No. 2286/98

1. Sh. Navin Kumar s/o Om Parkash,
R/o 42, Ambedkar Nagar/Basti Bhonda,
Delhi.

2. Sh. Kishan Bir s/o Amar Singh,
r/o 57, Balbir Nagar Vistar,
Shahdara, Delhi.

3. Sh. Vijay Kumar s/o Harbeer Singh,
r/o D-8/239, Purvi Gokalpuri,
Arjan Basti, Amar Colony,
Delhi.

4. Sh. Ram Pal Singh s/o Balla Ram,
r/o D-98, Gali No. 4, Jyoti Colony,
Shahdara, Delhi.

OA No. 2420/98

1. Sh. Jagdish Kumar s/o Sh. Ram Saran,
r/o C-254, Kidwai Nagar (East),
New Delhi.

2. Shri Rajinder Kumar s/o Tul Bahadur,
r/o E-54, Mansarover Park,
Shahdara, Delhi.

3. Sh. Uma Shanker Tiwari s/o Triveni Tiwari,
r/o Jhuggi No. 10036, Gali No. 1,
village Hyderpur Khaddar, New Delhi. ...Applicants

(By Advocate: Shri J.C.Madan)

Vs.

Government of N.C.T. of Delhi through

1. Chief Secretary,
5, Sham Nath Marg,
Delhi.

2. D.G.Home Guards,
I.T. Complex,
Raja Garden,
New Delhi.

....Respondents

(By Advocate: Shri Rajinder Pandita)

ORDER

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

All the five OAs are identical on facts and law and are, therefore, taken up together for being disposed of by this common judgement.

2. We have heard the learned counsel for the parties at length for final disposal of these OAs at the admission stage itself.

First, the essential facts:

3. The applicant in OA 1929/98 was appointed as Home Guard on 14.9.1989 initially for a period of three years. However, his engagement as Home Guard has continued since then. He is aggrieved by the notice dated 15.9.1998, as at Annexure A-1 to the OA by which he has been informed that after the completion of the term of three years, he will be relieved after 13.9.1998.

4. Similarly the applicants, four in number, in OA 1951/98, who had been initially appointed as Home Guards on different dates in the year 1989 and 1991 but had continued thereater in the Organisation, are aggireved by the impugned notices dated 15.9.1998 by which the applicants have been informed that their services shall no longer be required after 10.9.1998, 14.9.1998, 13.9.1998 and 13.9.1998, respectively.

5. The applicants in OA 2133/98, five in number, have assailed an identical notice dated 18.10.1998 informing them that their services will not be required after the month of November, 1998 and that the services shall stand terminated from different dates in the month of November. These applicants had been initially appointed for a period of three years in the Homeguards Organisation some time in the years 1992 and 1989 and have continued to work till the time the aforesaid notices were issued to them.

6. As regards the applicants in OA 2286/98 they had been initially appointed as Home Guards in the year 1992 and have come to the Tribunal against the notices in identical terms issued by the respondents informing them that their services shall be terminated after some time.

7. Lastly, we have OA 2420/98. The applicants in that OA, three in number, had initially been appointed as Home Guards on different dates in the year 1989. They are assailing the notices dated 14.1.1998 and 1.12.1998 by which their services are proposed to be terminated in the month of December, 1998.

8. In all the OAs the applicants have stated that having been continued in service even after the expiry of the initial period of three years the respondents have clearly treated the applicants as regular or semi-permanent employees and that the respondents cannot, therefore, summarily terminate their services without assigning any reasons. They have accordingly prayed that the notices threatening termination of the services of the applicants in these OAs be quashed and the respondents be directed to regularise the services of the applicants in the Home Guards Organisation.

9. The respondents have filed their counters in which it is contended that the services of Home Guards being essentially voluntary in nature and their engagements also being for a fixed term, they cannot claim regularisation or any other benefit.

10. During the course of his arguments, the learned counsel for the applicants placed reliance upon the provisions contained in the Home Guards Act, more particularly those contained in Sections 6-A of the Bombay Home Guards Act as also Rules 8 & 10 of the Delhi Home Guards Rules, 1959. The Act applicable is the Bombay Home Guards Act which has been made applicable to the Union Territory of Delhi. Under sub-section (1-A) of Section 6-B of the said Act the Commandant of the Home Guards has the authority to suspend or dismiss or impose fine in amount not exceeding Rs. 50/- to any member of the Home Guard under his control if he neglects or refuses to obey an order or to discharge his functions and duties as a member of the Home Guards. The Commandant can also discharge any member of the Home Guards at any time if in the opinion of the Commandant the services of such member are nog longer required. Rule 10 of the Delhi Home Guards Rules, 1959 provides that the powers under sub-section (1-A) of Section 6-B shall not be exercised unless the Commandant or the Commandant General is satisfied that such member has committed an act detrimental to the good order, welfare or discipline of the Homeguard Organisation. The learned counsel for the applicants in these OAs, therefore, vehemently argues that since there is no finding recorded in the various notices of termination that the Commandant is satisfied that any of the applicants in these OAs has committed such an act, the notices are not sustainable. In taking this plea the applicants seem to foget that the impugned notices are not under Section 6-B. These are general notices informing the respective applicants that their initial term of engagement viz., three years having already elapsed their services would stand terminated from particular dates. Thus, there is no question of any act detrimental to good order, welfare or discipline being involved in these cases. Once the

initial term of three years expires a Home Guard cannot claim as of right that the term of his appointment should be extended or that his services should be regularised. The Chandigarh Bench of this Tribunal, of which one of us (Sh. T.N. Bhat) was a Member, had held as far back as in the year 1994 in Tarsem Singh vs. Union of India & Ors. (OAs.1013-Ch./98, 1252/Ch-98 and a bunch of other OAs) that the services of Home Guards being essentially vountary in nature and their services also being based upon temporary need from time to time they cannot claim regularisation or any other benefit. Even the Apex Court in Rameshwar Dass Sharma & Ors. vs. State of Punjab & Ors.(Special Leave Petition (C) No. 12465/90) held that a person in the Home Guard being employed on the basis of temporary need from time to time cannot ask for regularisation and, therefore, such persons are not entitled to any relief from the courts. More recently in a number of judgements the Principal Bench of the Tribunal including one consisting of both of us had held by our judgement dated 13.1.1999 in OA 47/99 (Ram Naresh vs. Govt. of N.C.T. of Delhi & Anr.) that Home Guard personnel could not get any relief through the Tribunal nor were they entitled to continuous engagement as Home Guards as a matter of right.

11. We further notice that one of the judgements passed by Court No. III of this Bench in OA No. 2323/98 and 2486/98 (Sh. Daya Nidhi vs. Commandant General and Hasnain Ahmed & Ors. vs. Secretary, Ministry of Home Affairs) dated 18.12.1998 dismissing two OAs filed by some Home Guards personnel has been upheld by the Hon'ble High Court of Delhi by order dated 6.1.1999 and it has been held that there are no

reasons to interfere with the decision given by the said Bench of the Tribunal of which, again, one of us (Shri T.N.Bhat) was a Member.

12. We further notice that in an identical matter Court No. II of this Bench of the Tribunal vide its judgement dated 11/1/1998 dismissed two OAs. being OAs 2006/98 and 1846/98. giving detailed reasons holding that no relief for regularisation or even for re-engagement can be granted to Home Guard personnel to whom notices for termination of their services after the expiry of the initial period of engagement have been issued.

13. In view of the above we find no merit in any of these five OAs. All the OAs are accordingly dismissed, but without any order as to costs.

(R.K.Ahooja)
Member (A)

18.2.99.
(T.N.Bhat)
Member (J)

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