

(41)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

O.A. No. 533/98

199

T.A. No.

DATE OF DECISION: 25-5-2000

Sh. Jai Singh & others

....Petitioner

Sh. Arun Bhardwaj

....Advocate for the
petitioner(s)

VERSUS

UOI & Ors

....Respondent

Sh. Rajeev Bansal

....Advocate for the
Respondents.

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (A)

The Hon'ble

1. To be referred to the Reporter or not Yes

2. Whether it needs to be circulated to other
Benches of the Tribunal? No.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (A)

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Central Administrative Tribunal
Principal Bench

O.A. 533/98

New Delhi this the 25th day of May, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

1. Jai Singh,
S/o Shri Joga Singh,
Head Baker PSI Bakery,
Air Force Station Old Camp,
Race Course,
New Delhi-110003.
2. Ram Bharose,
S/o Shri Kali Ram
Baker, PSI Bakery,
Air Force Station Old Camp,
Race Course,
New Delhi-110003.
3. Amar Singh,
S/o Shri Shiv Singh,
Baker, PSI Bakery,
Air Force Station, Old Camp
Race Course,
New Delhi-110003.

Presently all residing at:

A-249, Rama Garden, Karawal Garden,
Delhi-110094.

(By Advocate Sh. Arun Bhardwaj)

Versus

... Applicants.

1. Union of India through
Secretary,
Ministry of Home Affairs,
Central Sectt.,
New Delhi.
2. The Air Force Commanding
Air Force Station, Race Course,
New Delhi-110003.
3. The Administrative Officer,
Sqn. Leader, Race Course Old Camp,
Air Force Station,
New Delhi.
4. Group Captain (CADO)
Race Course, Old Camp
Air Force Station,
New Delhi-110003.

... Respondents.

By Advocate Shri Rajeev Bansal.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

This O.A. has been filed by the three applicants against their termination from services by oral order issued by the respondents dated 18.7.1997.

2. The applicants state that they were working in PSI Bakery at Air Force Station from 1989, 1991, and 1990, respectively, and applicant 1 was appointed as Supervisor and the others as Helpers. According to them, they were getting their salary every month and had also been issued Identity passes by the respondents. They have stated that they were paid salary by the PSI office of Air Force and the salary bills were duly signed by the Sqdm. Leader of the Air Force.

3. The respondents in their reply have taken a preliminary objection on the jurisdiction of the Tribunal to entertain the application. According to them, the applicants have filed a similar petition before the Labour Commissioner, Delhi, seeking similar reliefs which they have concealed and hence they cannot file this O.A. in the Tribunal. Shri Rajeev Bansal, learned counsel for the respondents has submitted that the applicants, who were working as Bakery Supervisor and Helpers with the respondents in the PSI Canteen, New Delhi, are not government servants, but were working in a small Bakery, which is a Non-Public Fund venture. He has also relied on the Terms and conditions of Canteen Employees issued by the respondents dated 31.3.1984 (copy placed on record) on which Shri Arun Bhardwaj, learned counsel for the respondents has given his written submissions which are also placed on record.

4. Shri Arun Bhardwaj, learned counsel for the applicants has submitted that as the details of SLP stated to be pending before the Hon'ble Supreme Court, referred to in O.A.457/97 have not been given, it is not possible to make further submissions on the same or to bring on record the copies of the relevant orders. Both the learned counsel have been heard on the preliminary objection raised by the respondents on jurisdiction of the Tribunal to adjudicate the issues raised by the applicants in the present O.A.

5. Shri Rajeev Bansal, learned counsel has submitted that the small Bakery located at Old Willingdon Camp is a Non-Public Fund venture of Air Force Station, New Delhi, which was started in 1988, where the applicants were employed from 1989 onwards. According to the respondents, they were also provided with free food and allowed to reside temporarily in the bakery premises itself. They have stated that when the complaints were received from the troops in a welfare meeting about sub-standard quality of bakery products, it was decided to hand over the bakery on contract basis to a private contractor, but finally the contract did not materialise with the private contractor. Hence, the bakery employees continued to work in the bakery managed by the Station Service Institute.

6. From the Conditions of Service of canteen employees issued by the respondents dated 31.3.1984 read with the Rules regulating the terms and conditions of services of civilian employees of Air Force canteen, who are paid out of Non-Public Funds, it is seen that the Rules were not made

applicable to any person engaged on daily wages or on casual employment or to any government employees, who may, for the time being be detailed to work therein in any capacity.

Q 7. The applicants have relied on Identity passes issued to them by the respondents to claim that they are civilian employees attached to the Canteen run by the respondents. The respondents in their reply have, however, stated that Identity passes are also issued to non-government employees, for example, canteen employees, cinema employees and other Regimental shops employees, etc., who are not eligible for issue of permanent Identity cards which are issued to government servants. They have, therefore, contended that as the bakery in which the applicants worked is a Non-Public Fund Welfare venture of the Unit, and they were not being paid out of the Public funds, they cannot be considered as government servants.

Q 8. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties on the preliminary objection raised by the respondents regarding the jurisdiction of the Tribunal to adjudicate the issues raised in this O.A.

9. Identity passes issued to the applicants (Annexure A-1 collectively) state that it is a "Temporary Pass" of the Air Force Station, New Delhi, but it nowhere designates any one of the applicants as a government servant. In the circumstances, I find force in the contentions of Shri Rajeev Bansal, learned counsel that Identity passes have been given to the applicants as also issued to other non-government employees, who are working in shops, etc only on a temporary

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basis. It is also relevant to note that when a decision had been taken by the respondents as a matter of policy to hand over the management of ^{the} Air Force bakery on contract basis to a private contractor, that is, Clair's Confectioners, which ultimately was not finalised, the applicants had accepted the respondents' letter relating to the new terms and conditions of service under the contract, subject to their legal rights, entitlements and benefits under the Service Institute (Annexures A-4 and A-5). If, as contended by the applicants that they are government employees, such a proposal could not have been made or agreed to by the applicants for having their services transferred under the private contractor.

10. The applicants have not placed on record any documents to refute the contentions of the respondents that they were employed in PSI canteen of Air Force ^{Unit 13} which is a Non-Public Fund venture. In the circumstances, and having regard to the provisions of Sections 14 and 19 of the Administrative Tribunals Act, 1985, it cannot be held that the applicants are appointed to any civil service of the Union or hold any civil post under the Union ^{of India}. In this view of the matter, the other contentions of Shri Arun Bhardwaj, learned counsel that the applicants have not filed any petition before the Labour Commissioner will not assist them as this Tribunal does not have jurisdiction on the issues raised by the applicant in this O.A.

11. In view of the above, the O.A. is dismissed on the ground of jurisdiction. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'