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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2268/1995

New Delhi, this 17th day of January, 2000

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

1. Madan Singh Kaintura
2. Prem Singh
Both canteen employees
under Govt. of India Press
Minto Road, New Delhi .. Applicants

(By Shri A.S. Rawat, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Urban Development
Nirman Bhavan, New Delhi

2. Director of Printing
Nirman Bhavan, New Delhi

3. Manager
Government of India Press
Minto Road, New Delhi .. Respondents

(By Shri V.S.R. Krishna, Advocate)

ORDER(oral)
Hon'ble Smt. Shantha Shastry

The applicants, who are employees of the statutory canteen under Respondents No.2 and 3 have prayed for regularisation of their services as Assistant Halwai and Bearer with effect from 9.4.85 and 1.1.86 respectively with all consequential benefits.

2. The applicants No.1 and 2 were initially engaged as casual labourers on 9.4.85 and 1.1.86 respectively in the statutory canteen of the Government of India Printing Press, Minto Road, New Delhi. They worked continuously for 5 to 6 years. According to the applicants they were removed from service and were again appointed on 1.6.95 through Employment Exchange vide OM dated 30.5.95 of the Respondent No.2 for a period of two

months. It was extended upto 31.8.95. The applicants have stated that they were not allowed to enter the canteen on 7.9.95.

3. While in continuous employment, the applicants had represented to the respondents to regularise them against vacancies in the canteen. They had also approached the Assistant Commissioner of Labour, Central, Delhi Region to settle their disputes when the respondent No.3 had stated that a proposal for regularisation of the applicants had already been sent to Respondent No.2. But instead of regularising them they were removed from service.

4. The learned counsel for the applicants submits that the canteen is run by Canteen Management Committee. It is a statutory canteen. In 1985, vide OM dated 9.4.85 pay scales along with other benefits as extended to Government employees were granted to employees of statutory canteens also. In the canteen of the Government Printing Press such benefit was given to only 13 employees and the other employees continued to work on daily wages only. The canteen employees who got the benefits of government servants were also regularised subsequent to an order of the Hon'ble Supreme Court in WP No.120003. Later two of the thirteen employees retired. The applicants were however not appointed on regular basis in the resultant vacancies. They represented for permanent absorption through their Union's letter dated 27.12.94 but to no avail.

5. The learned counsel has stated further that one post each of Assistant Halwai and Bearer fell vacant on 30.10.94 and 30.11.94 respectively as can be seen from the letter of respondent No.2 dated 12.1.95 (Annexure A-5). There is thus scope for regular appointment of the applicants.

6. The learned counsel for the respondents has raised preliminary objections. According to him the applicants have filed the OA in 1995 with a prayer to be regularised from 1985-86. The same being badly delayed is barred by limitation. The Tribunal has no jurisdiction in this case because applicants are not employed by Government of India and do not hold any civil service or post in the office of the respondents. The applicants have acted in haste by approaching the Tribunal without waiting for the statutory period of six months after making a representation on 7.9.95.

7. The counsel has denied that the applicants have ever been employees of the respondents. The canteen is managed by the Canteen Management Committee consisting of duly elected members. The applicants were being paid from the daily sale proceeds of the canteen and not from the consolidated fund of the Government of India. They were engaged purely temporarily as casual labourers on lump sum amount. The applicants therefore have no claim for regularisation.

(T8)

8. The respondents have not denied that the sanctioned strength of canteen employees has been fixed by the Government at 13 vide Government's letter dated 9.4.85. Regular pay scales have been made applicable to only these 13 employees. The applicants were not on the rolls of the Canteen Management Committee when the sanctioned strength was fixed at 13. The respondents have admitted that 2 vacancies are available. However, they should be filled in a procedural manner as laid down in the relevant prevalent recruitment rules. The respondents have further argued that mere sending of proposals for regularisation cannot be construed as an undertaking. The vacancies can be filled up only subject to fulfilling of the terms and conditions of recruitment rules, which are being finalised.

9. We have heard and considered carefully the submissions made by both the parties. We note that the canteen is a statutory canteen and the pay scales and other benefits as applicable to government servants have been extended to 13 employees of the canteen as the sanctioned strength is 13. The respondents have also not denied that there are two vacancies, one each of Assistant Halwai and bearer as is stated in the letter dated 12.1.95 of Respondent No.2. The applicants had also been working as Assistant Halwai and Bearer respectively before they were removed. It is also observed that from 1.6.95 the applicants were engaged through Employment Exchange. Regular office orders of their temporary appointment were issued. Thus there is scope to appoint the applicants against the vacancies.

10. Having regard to the facts and circumstances of the case, we dispose of this application with a direction to the respondents to consider appointing the two applicants against the two vacant posts of Assistant Halwai and Bearer respectively in case vacancies still exist subject to their fulfilling the eligibility conditions in accordance with the rules and instructions on the subject. In case no vacancies are available immediately the applicants may be considered against future vacancies.

11. The OA is disposed of as aforesaid ~~with no orders~~

Shanta S

(Smt. Shanta Shastray)
Member(A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

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