

(19)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

OA No. 2114/96
OA No. 2116/96
OA No. 2117/96
OA No. 2118/96
OA No. 2120/96
OA No. 2121/96
OA No. 2122/96

New Delhi, this the 11/9 day of September 2001.

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri Shanker Raju, Member (J)

OA 2114/96

Ram Pher alias R.P. Singh
S/o Shri Devatadeen, Cashier,
INS India Canteen, Dalhousie Road,
New Delhi

.....Applicant

(By Shri Amitabh Chaturvedi learned counsel alongwith
Shri S.K. Jha)

Versus

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.
4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JOBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt.
Comdr. Atul Bhardwaj.)

20

OA 2116/96

Ram Sanehi Paswan
S/o Shri Charittar
C/o Shri Hemant Singhd.
R/o Block No. 1, Qr No. 23
Scheme B, President's Estate,
New Delhi.

.....Applicant

(By Shri Amitab Chaturvedi learned counsel alongwith
Shri S.K. Jha)

Versus

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.
4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JDBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt.
Comdr. Atul Bhardwaj.)

OA 2117/96

Sukhbir Singh
S/o Shri Anth Ram R/o Village. Dattour,
PO: Sampla, Distt. Rohtak

.....Applicant

(By Shri Amitab Chaturvedi learned counsel alongwith
Shri S.K. Jha)

h

21

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.
4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JOBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt.
Comdr. Atul Bhardwaj.)

O.A. 2118/96

Rohtashi Sharma
S/o nSh. Kali Ram Sharma
Vill & PO: Dattour,
Distt: Rohtak, HARYANA

.....Applicant

(By Shri Amitabh Chaturvedi learned counsel alongwith
Shri S.K. Jha)

Versus

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.

22

4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JOBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt.
Comdr. Atul Bhardwaj.)

O.A. 2120/96

Shri Ravinder Kumar
S/o Sh. Bani Singh,
C-2, MI Road,
Near Pandara Road,
New Delhi.

.....Applicant

(By Shri Amitabh Chaturvedi learned counsel alongwith
Shri S.K. Jha)

Versus

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.
4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JOBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt. Comdr. Atul Bhardwaj.)

OA 2121/96

Shri Ram Swaroop
S/o Shri Harbans, Labour
INS India Canteen,
Dalhousie road,
New Delhi.

.....Applicant

(By Shri Amitabh Chaturvedi learned counsel alongwith Shri S.K. Jha)

Versus

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.
4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JOBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt. Comdr. Atul Bhardwaj.)

OA 2122/96

Shri Anil Kumar
S/o Sh Kalo Ram
13/414, ODA Flats,
Kalkaji,
New Delhi

.....Applicant

(By Shri Amitab Chaturvedi learned counsel alongwith
Shri S.K. Jha)

Versus

1. Union of India through
The Secretary, Min. of Defence,
South Block, New Delhi.
2. The Secretary,
Min. of Personnel Public Grievances & Pensions
North Block, New Delhi.
3. Chief of the Naval Staff,
Naval Headquarters,
New Delhi.
4. The Commanding Officer,
INS India,
Dalhousie Road,
New Delhi
5. The Canteen Officer,
INS India Canteen,
Dalhousie Road, New Delhi
6. I.N. Canteen Control Board,
Naval Headquarters New Delhi through its
JDBS and Member Secretary.

.....Respondents

(By: Shri Vinay Sabharwal, learned counsel alongwith Lt.
Comdr. Atul Bhardwaj.)

O R D E R

BY HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

This combined order disposes of 07 OAs, all filed by
the Workmen attached to INS Canteen New Delhi seeking
identical reliefs and were heard together.

2. The above OAs all filed in 1996 were adjourned
sine die as the issue of which was pending before
maintainability of the OAs before the Tribunal and the
status of workmen attached to Unit run
canteens of Defence Forces as Civil Servant to approach this

Tribunal for redressal of their grievances was in doubt.

Now that the Hon'ble Supreme Court has settled the issue in the case of UOI Vs. M. Aslam & Others, SLP Civil Appeal No. 1039-40/1999 and 1042/99 on 4.1.2001 [(2001) 1 SCC 720]

holding that the staff attached to Unit Run Canteen in Army, Navy and Airforce were Government Servants, these have been taken up for disposal.

Heard S/ Shri Amitabh Chaturvedi and S.K. Jha learned counsel who represented the applicants, while Shri Vinay Sabharwal learned counsel alongwith Lt. Cdr. Atul Bhandwaj, appeared for the respondents.

4. i) OA No. 2114/1996

Relief claimed by Shri Rampher @ R.P. Singh, cashier/ a Workman attached to INS Canteen, Dalhousie Road, New Delhi in this OA are noted as below:-

(a) to make applicable to the applicant concerned the same rules, regulations, pay scales, allowances, etc. which are applicable to the similarly situated and performing same and / or similar duties workmen of Canteen Stores Department of the Ministry of Defence or of the Canteen under I.N. Canteen Control Board, regularise their service w.e.f. from the dates they started working in the INS India Canteen;

(b) to pay all the arrears of pay and allowances and other consequential benefits with retrospective effect;

(c) to desist from terminating the services of the poor workmen on any ostensible excuse whatsoever;

(d) in the alternative to relief (a) to frame a Scheme for regularisation and fixation of pay scales on the pattern of the rules applicable to Ministry of Defence, Union of India;

(e) to pay costs of these proceedings to the Applicant adequately;

(f) to comply with any other order or direction as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case to give complete relief to the applicant;

ii) OA 2116/96

Applicant Shri Ram Sanahi Paswan .

iii) OA 2117/96 : Filed by Shri Sukhbir Singh.

iv) OA 2118/96: filed by Rohitashi Sharma .

v) OA 2120/96 filed by Ravinder Kumar

vi) OA 2121/96 filed by Shri Ram Swaroop

vii) OA 2122/96 filed by Shri Anil Kumar.

-9-

Identical reliefs are claimed in above OAs (ii to vii) as claimed in the i) OA 2114 filed by Shri Ram Pher alias R P Singh and details ^{therein} ~~therein~~ are therefore not being reproduced. *Once again*

5. Stated briefly, the facts in terms of the application, are that the applicants in all the above 7 OAs are Workmen employed in various INS India Canteens run by INS India through its Commanding Officer. All of them possess INS India Entry Passes issued to them by Dy. Provost Master (DPM) renewed after every 3 months and thus they are employed by the "State". They have been working for quite some time in the Organisation and they are under the control of the Indian Navy Establishment. According to ^{the} ~~the~~ applicants the Canteen to which they are attached have basically 3 sections/departments i.e. Grocery Deptt. headed by Grocery In charge who is the Master Chief Petty Officer-I, Liquor Deptt. headed by Liquor In charge of the rank of Chief Petty Officer and Pick and Pay counter headed by a Leading Sailor of Indian Navy, all of whom are paid salary from the Indian Navy. In spite of the fact that the above canteens are run exactly in the same pattern as various canteens run by the Indian Navy Canteen Board the workmen attached to these canteens are severely discriminated against in regard to their emoluments and other service conditions. The pay scales of those attached

-10-

to the canteen under the INS Canteen Control Board had been revised w.e.f. 1.1.86 granting them the benefit of DA, CCA and HRA but the same had not been made applicable to the applicants who are being paid salary/wages arbitrarily fixed by the Canteen Officers. They are not being paid DA, Interim Relief, HRA, CCA etc. Besides they are also being discriminated against in as much as no service conditions have been laid down or made applicable to them which means that the applicants are put to disadvantage and inconvenience with regard to the hours and nature of work, emoluments, superannuation and terminal benefits etc. In fact they are made to work from 13 to 14 hours a day without payment of any overtime allowance. They also are not granted any weekly or holidays as provided for, even by the Shops and Establishment Act.

6. The Workmen have been performing jobs of Accountant, Cashier/ Biller, Salesman, Helper of which are of permanent and perennial nature but they have been treated as only casual workmen. They are also not being paid Bonus as permissible for others in similar and are to work at the cost of being removed from service if any objection is raised.

7. Constitutional Guarantees granted under Article 14 , 16, 19, 21 and 23 have been denied to them and these employees have been treated as Second class employees in

h

-11-

spite of their having performed their duties satisfactorily. They run risk of losing out at the whims and fancies of their employer without any Constitutional Protection. Hostile discrimination vis-a-vis similar placed employees under the Indian Naval Control Board, abjectly poor working conditions, denial of proper emoluments, superannuation benefits ^{etc} have all forced them to come to the Tribunal. They are also not being regularised and thereby denied protection of tenure, safety of employment and protection of their fundamental rights. Hence the above applications, seeking their reliefs as mentioned above ^{grant of} which alone would give them same respect, ^{seeing up to them.}

8. Respondents vehemently contest the averments made on behalf of the applicants. According to them, the applicants are not Central Government Employees. They are not in the service of the Union of India or Defence services nor are they employed in any civilian post of the Defence services. They are not being paid from Consolidated Fund of India but only from profit self generated by the Unit Canteens. There is, therefore no Master-servant relationship between Union of India and the applicants. They are casual employees working in INS India Unit Run Canteens are non public funded bodies, which are set up as a purely welfare measure to provide grocery, general provision stores, liquor and other household goods to Naval Personnel. The source of income are not public funds and no

h

post has been sanctioned by the Central Government for running the Canteen Navy Order (Special) 1/92, issued by the Chief of the Naval Staff would make it clear that unit canteens are run purely as a welfare measure, from self generated funds and through casual staff. As these are purely local arrangements, Central Govt. cannot be held accountable, as held by the Hon'ble Supreme Court in the case of UOI & Others Vs Tei Ram Parsharanii Bombhat & Others (1992 (44) SLJ 207) the Allahabad Bench of the Central Administrative Tribunal in OA No. 60/91 filed by M.S. Bisht and Anr. Vs Chairman CSD Canteen H.Q. UP Area Bareilly have held that the issues relating to such employees of Unit run canteens would not come within the purview of the Administrative Tribunal. This position was reiterated by High Court Punjab and Haryana in the case of Safsamma Vs Union of India in CWP No.12654/1993 and by the Ernakulam Bench in OA 1806/91 filed by R. Radhakrishnan Vs CNS. All the applicants are ordinary Casual Workers and cannot by any stretch of argument be termed as civil servants. There was therefore no question of any comparison between those working in Unit runs canteens and those working in the Canteens controlled by the Indian Navy Control Board. They also state that the decision of the Jodhpur Bench of the Tribunal, relied upon by the applicant had been stayed by the Hon'ble Supreme Court.

9. Preliminary objections raised by the respondents are that the Tribunal has no jurisdiction to deal with these cases. OAs are premature, hit by limitation and are vague. The Central Stores Department (CSD) was established to provide various items for sale in the canteens which are run

by officers of Army, Navy and Airforce as Voluntary Welfare functions and they are different from the Indian Naval Canteens Service and the unit run canteens like the present ones. While the employees of the CSD are Government employees those in Unit canteens as pointed out earlier are not. Unit run canteens are private enterprises where their employment is casual nature and they do not therefore any right any specific benefits as claimed. While Government employees are paid from the Consolidated Fund of India and employed through UPSC and Employment Exchange etc. and covered by Central Civil Services (CCA) Rule 1965, those of the Unit Run canteens employees are not paid from the Consolidated Fund, they are recruited locally and are not covered by CCS (CCA) Rules. In view of the above Tribunal cannot have any jurisdiction over the alleged grievances of the applicants. Respondents also aver that the allegations of hardship, discrimination, raised by the applicants have no basis at all and have been raised by them only to gain undeserved sympathy and inadmissible advantage, and ^{the application is} ~~deserved~~ ^{unjust} to be dismissed, pray the respondents.

10. During the oral submissions, the applicants' counsel Shri Amitabh Chaturvedi points out that with the decision of the Hon'ble Supreme Court in the case of UOI & Others Vs M. Aslam and Others (2001) I-SCC.720, the employees of Unit run canteens have become Civil Servants and come under the jurisdiction of the Tribunal. Hon'ble Supreme Court has in fact upheld the decision of the Jodhpur Bench of the Tribunal. Learned Counsel has also pointed out that the Hon'ble Apex Court has examined the entire gamut of the issue, including the various decisions and that as the law has now been finally settled, the reliefs sought by the applicants should follow. On the contrary Sh. Vinay

Sabharwal appearing for the respondents opines that Hon'ble Apex Court's decision can be clearly distinguished as the instant units are being run as Welfare Units, on their self generated funds. Sh. Sabharwal also stated that the position of the applicants was akin to the petitioners in the case of UOI Vs Chhotelal and therefore they are outside the jurisdiction of the Tribunal. There was no ground to allow the applications, pleads Sh. Sabharwal, learned counsel.

1.1. We have carefully considered the matter. Applicants before us are the workmen or employees of the Unit run canteens of INS at Dalhousie Road Delhi, who seek parity in pay and service conditions with those employed by canteens under the Canteen Stores Department, as they are performing similar functions and shouldering similar responsibilities. The plea is repelled by the respondents according to whom, the applicant not being Civil Servants or Govt. Servants cannot come to the Tribunal for redressal of their grievances on service matters. The said issue is no longer in dispute with the decision of the Hon'ble Apex Court in M. Aslam's case (supra). Dismissing the appeal filed by the Union of India against the decision by the Jodhpur Bench of the Tribunal, the Hon'ble Apex Court has laid down the law that the employees of the unit run canteens are Govt. servants, who can have their service Grievances agitated before the Tribunal and that the respondents shall determine their service conditions. As the issues settled by the Hon'ble Apex Court covers the facts and issues of the instant applications, the same would bear reference in extenso. Para 3 of the said judgement which are ^{relevant} ~~relevant~~ in this connection is reproduced as below:

- 15 -

“3. In order to decide whether the employees serving in the Unit-run Canteens can be held to be government servants, it is necessary to find out the mode of appointment of such employees, rules and regulations governing the conditions of service of such employees, fund from which such salary is paid, and other factors which really determine the existence of relationship of master and servant between the Government and the employees. In the defence services there are two types of canteens; (1) Canteen Stores Department and (2) Unit-run Canteens. The Canteen Stores Department was in existence in this country even during pre-independence days and it has its Head Office and Base Depot in Bombay with 33 Area Depots all over the country. These Area Depots are the wholesale outlets, which serve Unit-run Canteens in their respective zones. The Canteen Stores Department, after independence from 1948 onwards, function as a department under the Ministry of Defence initially for 3 years on an experimental basis and later from 1950 has been working on a permanent basis. We are concerned in the present case with the Unit-run Canteens and the status of the employees serving therein. As has been stated earlier, these Unit-run Canteens under their respective Commanding Officers in the three services — army, navy and air force get their articles from the wholesale outlets in the area depot of the Canteen Stores Department and at present there exist 3400 Unit-run Canteens. Prior to the World War II the retail trade in the defence services was in the hands of the contractors. During World War II a regular cadre under Indian Canteen Code came to be formed called the Canteen Services (India) to handle retail trade in operational areas where contractors were not expected to go. After 1947, the organisation split into two: Canteen Stores Department (India) and Canteen Stores Department (Pakistan). The retail trade, however, was reverted to the contractors. But by the early fifties it was realised that the margin of profit between the wholesale price and the retail rate could be a welcome source of funds available to the commanding officers for welfare purposes. Thus, the concept of Unit-run Canteens was born, and contractors were driven out. When Major Gen. K.S. Thimmaya took over as Quarter Master General, he gave detailed thought to providing canteen facilities to the troops at the unit level. He found that retail outlets being in the hands of the unit canteen contractors, the margin between the wholesale price and retail price of goods went to the contractors whereas the amount in the hands of individual commanding officers of units in the army, navy and air force could be utilised for the welfare of the troops. The case was therefore made out jointly for taking over of contractor-run canteens by

units or formations; as the case may be, so that the profits from the sale of canteen stores could be retained within the unit. Contractors, no doubt, put up considerable objection to the aforesaid proposal but the Government agreed to the proposal of General Thimmaya and orders were issued. The concept of Unit-run Canteens, therefore, became an accepted doctrine though it took considerable period for implementing the change over. It goes without saying that from 1948 onwards the Canteen Stores Department (for short "CSD") functioned as a department under the Ministry of Defence, initially for three years on an experimental basis, and later from 1950 on a permanent basis and yet right up to 1977 the legal status of the same remained nebulous. For functional purposes, it was a commercial undertaking, but for actual practice it was treated as a department of the Ministry of Defence. The result was that the terms and conditions of employees presented various problems which quite often became a source of discontent and unpleasant employer-employee relations. As has been stated earlier, for effective functioning of the defence services it is absolutely necessary to provide canteen facilities throughout the country and while the Canteen Stores Department serve as wholesale outlet it is the Unit-run Canteens which serve as retail outlet. A set of rules regulating the terms and conditions of service of the employees of Unit-run Canteens have been framed which confers all-pervasive control over the employees with the authorities of defence services. Though the funding of the Unit-run Canteens is not made out of the Consolidated Fund of India but it is made by the Canteen Stores Department and this department in its turn has formed a part of the Ministry of Defence, admittedly. In *Parimal Chandra Raha v. LIC of India*², the employees of different canteens in different offices of Life Insurance Corporation whether were employees of the Corporation itself was under consideration by this Court. This Court evolved four principles which are quoted hereunder: (SCC Headnote)

"(i) Canteens maintained under obligatory provisions of the Factories Act for the use of the employees become a part of the establishment and the workers employed in such canteens are employees of the management.

(ii) Even if there is a non-statutory obligation to provide a canteen, the position is the same as in the case of statutory canteens. However, if there is a mere obligation to provide facilities to run a canteen, the canteen does not become part of the establishment.

(iii) The obligation to provide canteen may be explicit or implicit. Whether the provision for canteen services has become a part of the service conditions or not, is a question of fact to be determined on the facts and circumstances in each case.

(iv) Whether a particular facility or service has become implicitly a part of the service conditions of the employees or not, will depend, among others, on the nature of the service/facility, the contribution the service in question makes to the efficiency of the employees and the

35

establishment, whether the service is available as a matter of right to all the employees in their capacity as employees and nothing more, the number of employees employed in the establishment and the number of employees who avail of the service, the length of time for which the service has been continuously available, the hours during which it is available, the nature and character of management, the interest taken by the employer in providing, maintaining, supervising and controlling the service, the contribution made by the management in the form of infrastructure and funds for making the service available etc."

Applying the aforesaid principle to the facts in the present case, it is difficult to conceive as to how the employees working in the Unit-run Canteens can be held to be not government servants, when it has emerged that providing canteen facilities to the defence service personnel is obligatory on the part of the Government and, in fact, these Unit-run Canteens discharge the duty of retail outlets after getting their provision from the wholesale outlet or depot of the Canteen Stores Department. Mr. Goswami, the learned Senior Counsel appearing for the Union of India strongly relied upon the judgement of this Court in Union of India Vs. Chotelal wherein the question for consideration was whether dhobis appointed to wash the clothes of cadets at NDA at Khadakwasla, who are being paid from the regimental fund, could be treated as holders of civil post within the Ministry of Defence. This Court answered in the negative because the regimental fund was held not to be a public fund as defined in para 802 of the Defence Services Regulation. Payment to such dhobis out of the regimental fund and the character of that regimental fund was the determinative factor. But in the case in hand if the Canteen Stores Department forms a part of the Ministry of Defence and if their funds form a part of the Consolidated Fund of India and it is the said Canteen Stores Department which provides fund as well as different article through the retail outlets of Unit-run Canteens then the employees who discharge the duties of salesmen in such retail outlets must be held to be employees under the Government. The officers of the defence services have all pervasive control over the Unit-run canteens as well as the employees serving therein. A regular set of rules have been framed determining the service conditions of the employees in the Unit-run Canteens. The funding of articles are provided by Canteen Stores Department which itself is a part of the Ministry of Defence. The report of a Committee of Subordinate Legislation went into detail of the working conditions of the employees engaged in the Unit run Canteens and categorically came to the conclusion that these employees are recruited, controlled and supervised by the rules and regulations made by the defence services although these have been given the name of executive instructions. The said committee came to the conclusion that for all intents and purposes the

-18-

employees in the Unit-run Canteens are government employees and should be treated as such. In the aforesaid premises, we are of the considered opinion that the status of the employees in the Unit-run Canteens must be held to be that of a government employee and consequent the Central Administrative Tribunal would have the jurisdiction to entertain applications by such employees under the provisions of the Administrative Tribunal Act. Civil Appeals Nos. 1039-40 of 1999 by the Union of India against the order of the Central Administrative Tribunal Jodhpur Branch in OA No. 86 of 1995 accordingly stand dismissed." (emphasis added)

12. The Hon'ble Supreme Court has thus held that the employees/workmen attached to Unit run Canteens are Government Servants who can approach the Tribunal for redressal of their grievances. And that is the law. As such all the above applications have been correctly entertained. The plea by the learned counsel for respondents that the decision of the Hon'ble Apex Court in Aslam's case can be distinguished has therefore no merit in view of the fact that the Hon'ble Supreme Court in their decision had examined the relevance of all the earlier cases on related matters including that of Chhote Lal (supra) on which heavy reliance has been placed by the respondents. Therefore their plea deserves to be rejected.

13. No doubt the Hon'ble Supreme Court has granted the status to Civil servant/Government servant to the applicants and has declared them to be eligible for redressal of their grievances by approaching this Tribunal. The Hon'ble Court has further held that while the status of

(37)

-19-

the employees serving in the Unit run Canteens is that of the Govt. servants but that the same ipso facto does not entitle them to get all the service benefits as are available to those ⁱⁿ regular service or even their counterparts serving in various CSD Canteens. The Hon'ble Court has held that it will necessarily depend on the nature of duties discharged by them as well as on the rules and regulations and set of administrative instructions issued by the competent authority governing the service conditions of such Unit run canteens. It would mean that the employers would have to formulate a scheme for governing the service conditions, structure of pay, emoluments, retiral benefits and all other perquisites attached to the jobs keeping in mind the nature of duties performed by the employees.

14. In the above view of the matter the applications succeeds and are accordingly allowed. While treating the applicants as Govt. servants, correctly entitled for redressal of their grievances by this Tribunal, we direct the respondents to draw up necessary scheme for regularising the structure of pay and allowances of the applicants, conditions relating to their superannuation and, retiral benefits and other service conditions of the applicants keeping in mind the nature of their duties and their equation with those working in the CSD canteens. This exercise shall be completed within 6 months from the date of receipt of copy of this orders. Once such a scheme framed and given effect to the applicants shall be entitled for all the benefits, primarily monetary benefits including arrears of pay allowances in the admitted scales from January 1995", i.e. one year preceding ^{the} filing of these applications.

15. No costs.

20/-

16. Before parting with this bunch of OAs we would also like to record that 3 (three) more applications - OA No. 2075/96 filed by Jagdish Ram, 2077/96 filed by Pankaj Tyagi and 2080/96, filed by Sanjay Kumar - on the same issues as above had also been placed before us. In this connection we note that these 03 OAs have been dismissed by another court of the Principal Bench of Tribunal on 23.3.2000, on the sole ground that the applicants not being civil servants, are not entitled to have their grievances agitated before this Tribunal for redressal. The present order given above runs counter to this decision, in view of the Hon'ble Apex court's findings in the case of UOI Vs. M. Aslam and others holding that the applicants are very much Govt. Servants/Civil Servants. As the decision of the Hon'ble Supreme Court is a judgement - in - rem and lays down the general law, it would be applicable in the above 03 mentioned earlier OAs ^{as well} in spite of their earlier dismissal on the preliminary ground of maintainability.

17. Accordingly MA 1003/2001 in OA 2075/96, MA 999 in OA 2077/96 and MA 1002 in OA 2080/96 are disposed of.

(Shanker Raju)
Member (J)

(Govindan S. Tampi)
Member (A)

Patwal/

A. K. Hestiel

Byju

14/9/2011

C.O.

C. IV