

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SMT. LAKSHMI SWAMINATHAN, MEMBER (J)
HON. SHRI R.K. AHOOJA, MEMBER (A)

DA NO. 2512/1996
WITH O.A. NO. 1775/1996

NEW DELHI, THIS 6TH DAY OF MAY, 1997.

(b)

O.A. NO. 2512/96

1. SHRI A.K. PAL
S/o Sh. D.P. Sharma
RZ-17, Indira Park
Uttam Nagar
NEW DELHI
2. SHRI S.N. MARWAH
S/o Sh. D.N. Marwah
D-159 Ekta Enclave, Peera Garhi
Nangloi Road
New Delhi
3. SHRI RAM PATE
S/o Sh. Inder Singh
Village New Roshanpura
Najafgarh
NEW DELHI
4. SHRI PRAHLAD SINGH
S/o Sh. Hira Lal
RZ/10-8 New Roshanpura Extension
P.O. Najafgarh
NEW DELHI
5. SHRI PANNA LAL
S/o Sh. Kedar Nath
D-2/421 Nand Nagri
DELHI
6. SHRI RAM KISHORE
S/o Shri Ram Sagar
B-4/224 Nand Nagri
DELHI
7. SHRI SODAN SINGH
S/o Shri Anant Ram Singh
E-1728 Jahangirpuri
NEW DELHI
8. SHRI MURARI LAL
S/o Sh. Prabhu Mal
7124 Gali Talian
Pahari Dhiraj
Sadar Bazar
DELHI
9. SHRI SHREE BHAGWAN
S/o Sh. Balwant Singh
Vill. & PO Holabi Kalan
DELHI

10. SHRI RAM ACHAL
S/o Sh. Ram Dass
Jhuggi No.4
Near Goods Office Subzimandi
Roshanara Road
DELHI

11. SHRI BHAGAT RAM
S/o Sh. Gorik Rak
H.No.166, Gali No.7
Gautam Colony, Narela
DELHI

12. SHRI PARMOD KUMAR Garg
S/o Sh. P.C. Garg
H.No.2012 Railway Road
Narela, DELHI

13. SHRI MOTI LAL
S/o Sh. Lahori
39-D/1 Railway Colony
Punjabi Bagh
NEW DELHI

14. SHRI RAM YAG
S/o Sh. Balwanti
T-718/20 Amar Park
Zakhira, DELHI

15. SHRI MAHESH SINGH
S/o Sh. Janak Singh
A-294 Gali No.8
Gamdi Extension
DELHI-53.

16. SHRI MEGH RAJ
S/o Sh. Uttam Chand
2/35 Geeta Colony
DELHI-31.

17. SHRI RAM NARAIN
S/o Shri Sarjoo Prasad
Z-A/136, Geeta Colony
DELHI-31.

18. SHRI BRIJ PAL SINGH
S/o Sh. Gajiram Singh
F-2/57 Mangol Puri
DELHI

19. SHRI NAWAB SINGH
S/o Sh. Shiv Charan Singh
F-2/107 Mangol Puri
DELHI

...Applicants

(By Advocate - Shri J.C. Madan)

O.A. No. 1775/96

1. SHRI DONGER SINGH, HG
S/o Sh. Ratti Ram
WZ/H-36, Arya Samaj Road
Uttam Nagar
NEW DELHI
2. SHRI YOGY NARAYAN PANDEY, HG
S/o Sh. Kanshi Ram Pandey
B-58/1044 Rama Road
Moti Nagar, NEW DELHI
3. SHRI RAM BARAN
S/o Sh. Ramphar
L/426 Mangolpuri
DELHI
4. SHRI LAXMAN SINGH
S/o Shri Mangal Ram
I/60 Karampura
NEW DELHI
5. SHRI RAM NAIN
S/o Sh. Buduri
G/T-40, Karampura
NEW DELHI

...APPLICANTS

(By Advocate - Shri J.C. Madan)

VERSUS

1. Govt. of NCT Delhi
through its Chief Secretary
5 Shamnath Marg
DELHI
2. Director General of Home Guards
& Civil Defence
CTI Complex
Rajouri Garden
New Delhi
3. Commissioner of Police
Delhi Police Headquarters
I.P. Estate
New Delhi

...RESPONDENTS

(By Advocate - Shri Vijay Pandita
and Shri Surat Singh)

ORDER (ORAL)

SMT. LAKSHMI SWAMINATHAN

The above two O.A.s, O.A. No. 2512/1996 and 1775/1996, have been taken up together for disposal as the facts and issues involved in these two cases are similar, and with the consent of the 1d. counsel for both the parties.

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2. Briefly stated, the applicants in these two O.A.s have challenged the impugned orders passed by the respondents discharging them from service under Rule 8 of the Bombay Home Guards Act 1947 as extended to the Union Territory of Delhi and rules made thereunder. The main challenge to the impugned orders is that the respondents have failed to comply with the requirements under the Rules, viz., giving one month's notice which the 1d. counsel for the applicant submits is also against the principles of natural justice. He also relies on a judgement of this Tribunal in the case of KRISHAN KUMAR VS. NCT DELHI (OA NO.188/1995 decided on 1.6.95).

3. The 1d. counsel for the respondents has submitted that there was no necessity to issue such a notice in the case of the applicants who had been engaged beyond the initial period of three years. His submission is that one month's notice is required only if the Home Guard volunteers are discharged within the term of three years of their initial appointment, which is not the case of the present applicants.

4. We have considered the pleadings and submissions made by the 1d. counsel and the provisions of Rule 8 of the Home Guards Rules under which the impugned orders have been passed. For the reasons given in the judgement in the case of Krishan Kumar (Supra), these applicants succeed, as admittedly no notice as required under the Rules has been given to the applicants before the impugned orders have been passed. It is also not the case of the respondents that the applicants were being discharged under the provisions of Rule 8(b), which provides that such a notice is not required if a member is found medically unfit.

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5. In the facts and circumstances of the case, the impugned orders issued by the respondents discharging the applicants as Home Guard volunteers are quashed and set aside. However, it is made clear that the applicants shall not be entitled to any allowances/honorarium for the period they have been out of service. Further, it is directed that the respondents shall consider engaging the applicants as and when their services are required on a voluntary basis considering their seniority and services rendered by them previously, subject to their fulfilling all other eligibility conditions.

6. O.A. No.2512/1996 and 1775/96 are disposed of as above. No order as to costs.

Rakesh
(R.K. AHOJA)
MEMBER (A)

Lakshmi
(MRS. LAKSHMI SWAMINATHAN)
MEMBER (J)

/ avi/