

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA.No.2614 of 1996.
MA.No.1340 of 1997.

(X)

New Delhi, this 23rd day of September, 1997.

HON'BLE DR JOSE P. VERGHESE, VICE CHAIRMAN(J)
HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

1. Canteen Mazdoor Sabha(Regd.No.2542)
LP-37B, Maurya Enclave
Pitam Pura
NEW DELHI-110 034.

Through

2. Surendra Prasad
S/o Shri Kedar Dutt
R/o 612, Aliganj, Lodhi Road
NEW DELHI-110 034.

3. Chandan Singh
S/o Shri Bir Singh
R/o P-446, Seva Nagar
NEW DELHI.

4. Lalita Parsad
S/o Shri Shankar Mani
R/o B-1/57 Gali No.2
West Vinod Nagar
DELHI.110092.

5. Mohan Singh
S/o Shri Dalip Singh
R/o 321, Guru Ram Das Nagar
Laxmi Nagar
DELHI-110092.

... APPLICANTS

By Advocate: Shri Shyam Babu

versus

1. Union of India, through
Secretary
Ministry of Personnel/Public
Grievance, Pension and Training
North Block
NEW DELHI.

2. Secretary
Ministry of Urban Development
Nirman Bhawan
NEW DELHI.

... RESPONDENTS

By Advocate: Shri R. V. Sinha

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O R D E R (ORAL)

Dr Jose P. Verghese, VC(J)

After we have passed orders on 16.9.97, we had given opportunity to the respondents to present this case. The order of 16.9.97 shall form part of the order today as well. The counsel for the respondents submitted that vide order of the Supreme Court in C. K. Jha's case dated 11.10.91, the Supreme Court had in fact given "further benefits" only with effect from 1.10.91 and it was argued that "further benefits" include the consideration of priority date from the date of declaration as civil servants. The counsel for the applicant, on the other hand, submitted that the other benefits referred to in the said order cannot have any reference to cut-off date being taken for the purpose of considering eligible service for government accommodation. He also has shown to us that even at the time when the decision in Jha's case was given by the Supreme Court, many of the non-statutory employees had, on the other hand, alleged that the issue was not directly involved in the said case. In any case, we are not deciding this issue in this manner at present for the reason to be given in the subsequent paragraphs. It was also stated by the counsel for the respondents that for the purpose of determining government residential accommodation, the Directorate of Estates were considering 1.10.91 as cut-off date on the basis of the decision of the Hon'ble Supreme Court and on the basis of the subsequent declaration by the DoP&T to grant the benefit on the basis of declaration of being government servant with effect.

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from the said date. Subsequently, by an order dated 1.1.97, the Director of Estates has further recommended for extension of the benefits of service only for consideration of entitlement of government accommodation with effect from 26.9.83 on the basis of a subsequent declaration by DoP&T that the non-statutory employees shall be treated for various purposes as government servants with effect from 26.9.83.

2. Subsequently, by an order dated nil, Shri S. C. Nagpal, Director of DoP&T has intimated in addition to his previous letter dated 22.1.97 to the Director of Estates, that the eligibility for government accommodation if taken from the cut-off date earlier determined, these employees may never get the government accommodation during their service period. He has also reminded the Director of Estates that the DoP&T had recommended that the canteen staff may be allowed to reckon the date of priority from the date of their appointment and not from cut-off date.

3. On a logical consideration, we find that the recommendations of the DoP&T in this regard seems to be the right one. What is at issue is not whether all the canteen staff will get the benefits from the date of their appointment rather once declared a government servant whether they are entitled to the benefit of their entire service either for the purpose of reckoning the date of priority for allotment of government accommodation or not, except for that purpose, the date of appointment has no

relevance for any other purposes. It is also relevant to mention that the date of appointment is not depending upon any cut-off date rather it varies from person to person and, therefore, no cut-off date can be replaced in place of date of appointment for the reason any cut-off date is going to adversely affect the claim of individual canteen staff for being considered for the purpose of priority date.

4. We were also shown a part of the judgment of Supreme Court in M.M.R. Khan & Ors. Vs UOI & Ors. wherein the Supreme Court has clarified that the benefits given to various categories of staff shall not be given in a discriminatory manner and in such circumstances where the statutory staff has been granted benefit of calculating their priority date for entitlement to government accommodation from the date of appointment. we find no reason why the same criteria cannot be applied in the case of the non-statutory employees as well.

5. By a letter referred hereinabove, written by the Director, DoP&T to the Director of Estates it was stated that the Director of Estates was to take an appropriate decision in the light of the recommendations of the same by DoP&T to treat the date of appointment for the purpose of date of priority for entitlement to government accommodation. It transpired from the records that an appropriate decision could not be made due to the pendency of this case. It goes without saying that after hearing the counsels and perusing the records we are

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of the opinion that the applicants herein are entitled to be considered the date of appointment for the purpose of reckoning date of priority for entitlement to government accommodation. The appropriate authority shall pass orders in this regard keeping in view, the recommendations made by DoP&T as well as findings recorded hereinabove, within eight weeks from the date of the receipt of a copy of the order and intimate the parties the decision thereon in accordance with law.

6. With this, this OA is disposed of. No order as to costs.


(K. MUTHUKUMAR)
MEMBER(A)


(DR JOSE P. VERGHESE)
VICE CHAIRMAN(J)