

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 917/1996
M.A. No. 141/2000

with

O.A. NO. 2119/1996
M.A. NO. 1499/2001

(34)

New Delhi, this the 15th day of October, 2001

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member (A)

OA 917/1996

Shri Hemant Singh
S/o Shri Shivendar Singh
R/o 5/16 Schedule 'B'
President's Estate
New Delhi.

OA 2119/1996

Manohar Singh, S/o Sh. Pubban Singh,
R/o Palam Colony, B III RZG 240,
Rajnagar, Palam,
Delhi.

...Applicants

(By Advocate Shri S.K.Jha, proxy counsel
for Mrs. Subhadra Chaturvedi)

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 JOPCS and Member Secretary.

...Respondents

(None present)

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O.R.D.E.R (ORAL).

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

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While the applicants were represented by Shri. S.K.Jha, learned proxy counsel, none appeared for the respondents, inspite of notice. We are, therefore, disposing of the OAs on the basis of the facts brought on record as well as the written submissions by the respondents in view of the Rule 15 of the CAT (Procedure) Rules.

2. Both the OAs are being disposed of together as reliefs asked for are common and so are the pleadings raised on behalf of the applicants as well as the respondents.

3. Reliefs sought in the two OAs by the applicants, who are employees of the Unit-run canteen called INS Canteen are 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 services 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.

4. The above pleas/demands are vehemently opposed by the respondents, in their written submissions stating that as the unit run canteens, where ~~sup~~ the applicants work are not part of the Navy Establishment, but are entities run by the units on self-generated funds. As the expenditure towards the upkeep of the unit run canteens and the salary of the applicants are not met from the Consolidated Fund of India, the employees are not civil servants and/or Govt. servants and, therefore, cannot have their rights agitated before the Tribunal, according to the respondents.

5. We have carefully considered the matter. We observe that the above OAs had not been entertained earlier as the status of the employees of the unit run canteens as civil servants/Govt. servants was in doubt and it was felt that they cannot move this Tribunal for redressal of their grievances on service matters. The said position has changed with the decisions of the Hon'ble Supreme Court in the case of UOI and Ors. Vs. Mohd. Aslam & Ors. (2001 (1) SCC 720), wherein it has been held that the employees of the Unit-run canteens are Govt. servants and they can approach the Tribunal for amelioration of their service conditions. Following the above, Principal Bench of this Tribunal had disposed of seven other OAs, filed by the employees of INS India Canteens, where the present applicants also work, seeking

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identical reliefs granted by the the combined order dated 15-9-2001. Relevant portion of the said decision is re-produced as below :-

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"It is thus evident 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 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.

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 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 regular service or even their counter parts 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 perquisite attached to the jobs keeping in mind the nature of duties performed by the employees.

6. The above observations are squarely applicable to the two OAs, under consideration now. Therefore, we adopt the above observations/decision in respect of these OAs.

In the result,

7. Accordingly, the OAs succeed and are accordingly allowed. While treating the applicants as Govt. servants, correctly entitled for approaching

this Tribunal for redressal of their grievances on service matters, we direct the respondents to draw up necessary scheme for regularising the structure of pay and allowances of the applicants along with other conditions of service relating to their superannuation and retiral benefits etc., 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 from January 1995 i.e. one year prior to their filing of these OAs. No costs.

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Patwal/

(Govindan S. Tampi)
Member (A)

(Ashok Agarwal) —
Chairman