

Central Administrative Tribunal  
Principal Bench

RA 114/97  
in  
O.A. 2549/96  
and  
O.A. 2549/96

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New Delhi this the 27th day of August, 1997.

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

Hon'ble Shri R.K. Ahooja, Member(A).

O.P. Gaur & Ors. ...Review Applicants.

By Advocates S/Shri S.K. Gupta and U. Srivastava.

Versus

N.C.T. Delhi and Ors. ... Respondents.

By Advocate Shri S.S. Panwar, proxy for Shri Jog Singh.

O R D E R (Oral)

Hon'ble Shri R.K. Ahooja, Member(A).

The Review Application (RA 114/97) has been filed in O.A. 2549/96 which was disposed of by a common order dated 21.3.1997 ~~in which~~ a number of applications relating to Home Guards under the National Capital Territory of Delhi were decided. In respect of O.A. 2549/96, it was noted that the learned counsel for the applicant Shri U. Srivastava had admitted that all the applicants were still employed. The O.A. was dismissed with the following remarks:

"In the present O.A., on the statement of the ld. counsel for the applicants himself, applicants are still in service and hence have no further cause for action...."

2. The learned counsel for the review applicants submits that the applicant Nos. 1 and 2 were discharged by order dated 15.12.1994 and the applicant No. 3 was

on

discharged by an oral order dated 13.11.1996. Therefore, there is a patent error and the impugned order dated 21.3.1997 in O.A.2549/96 deserves to be reviewed.

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3. On notice, the respondents have filed their reply admitting to the extent that the applicants are discharged from Home Guard, and are not earning their livelihood by serving in the Home Guard Organisation.

4. We have heard the learned counsel for the review applicants. The learned counsel submits that since this O.A. was heard with a large number of other O.As it is possible that the counsel had been misunderstood by the Bench in respect of the continuation of the review petitioners in service. This could well be so since we find that the respondents have themselves admitted that all the petitioners have been discharged from the Home Guards and are not serving with that organisation any longer.

5. We have heard the matter on merits. The case of the two applicants/petitioners is that they have been discharged under Rule 8 of the Delhi Home Guard Rules, 1959 without fulfilling one of the conditions, namely, giving one month's notice. This position is not disputed by the respondents. Thus, this case is squarely covered by the judgement of this Tribunal in Krishan Kumar & Ors. Vs. Govt. of NCT, Delhi & Ors. (O.A. 188/95) dated 1.6.1995. Since the termination of the applicant Nos. 1 and 2 is neither on account of medical illness nor has been done by giving one month's notice, it is clearly illegal and is liable to be set aside. Accordingly, we recall the order dated 21.3.1997 only in O.A. 2549/96 and allow the application in respect of the applicant Nos. 1 and 2. The applicant Nos. 1 and 2

or

will be deemed to be continued in service . Annexure RA-1 order dated 21.3.1997 is quashed in respect of the applicant Nos.1 and 2, with liberty given to the respondents to pass fresh orders, if so advised, in accordance with law.

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6. In so far as applicant No. 3 is concerned, we find no merit in the submissions made by the learned counsel for the applicants.

7. The Review Application (RA 114/97) and G.A.2549/96 disposed of accordingly.

~~Reahis~~  
(R.K. Aksoja)  
Member(A)

~~Lakshmi Swaminathan~~  
(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'