

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1754/2000

MA NO. 740/2002

OA NO. 2041/2000

MA NO. 737/2002

OA NO. 1891/2001

MA NO. 736/2002

This the 2nd day of August, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)

OA NO. 1754/2000

1. Jagbir Singh S/o Sh. Man Chand,
R/o. 46, Village Gadaipur, New Delhi.
Sanad NNo. 6881, Rank-S.P.C.
 2. Shiv Prashan S/o Sh. Bhuleshwar Yadav,
R/o H.No.C-85, Janta Flat, Saket,
New Delhi.
 3. Birbal S/o Sh. Harcharan,
R/o Manndi Pahari, Mehrauli,
New Delhi.
 4. Mukum Chand, S/o Chiranjil Lal,
R/o C-105, Janta DDA Flat,
Katwaria Sarai, New Delhi.
 5. Mahender Singh Gaur S/o Sh. Vijay Singh Gaur,
R/o Rajput Khurd, Maidagarhi,
New Delhi.
 6. Daroga Rai S/o Panchu Rai
R/o B-718, J.J. Colony, Buda Nagar,
Inderpuri, New Delhi-110012.
 7. Mani Lal S/o Mahavir Singh
R/o F-1/230, Sultanpuri,
Delhi-110041.
 8. Naval Kishore S/o Sh. Ram Prabodh
R/o B-612, Hari Nagar, Clock Tower,
New Delhi.
 9. Ramshwar Ram S/o Sh. Nand Kumar Ram,
R/o WZ-A-2-126, Jawahar Camp, Kirti Nagar,
New Delhi.
 10. Ram Kishann S/o Khacheru Singh
R/o H.No. 222, Viyogi Bhouli
New Delhi.
 11. Ram Shankar S/o Lal Singh,
R/o C-848, Viyogi Dhauli,
New Delhi.
 12. Ram Ratan Singh S/o Shri Sant Singh
R/o G-16, Khanpur Extension,
New Delhi.
- K

13. Kishan Ram S/o Raj Banshi Ram,
R/o WZ-430/C-58, Village-Naraina
New Delhi.
14. Om Prakash S/o Krishan Lal
R/o A-96, Dakshinpur, Delhi-62.
15. Harish Chandra S/o Sh. Bhagwa Sahai,
R/o A-85/88, Indira Gandhi Camp,
Naraina, Phase-I, New Delhi.
16. Govind Singh Negi S/o Sh. Nand Singh Negi
R/o F-116, Katwaria Sarai,
New Delhi.
17. Prahlad Singh R/o Metram
R/o H.No. 460, Mahipalpur,
New Delhi.
18. Randhir Singh Rawat S/o Dev Singh Rawat,
R/o F-116, Katwaria Sarai,
New Delhi.
19. Sitaram S/o Ram Nath,
R/o H-112/305, Vasant Kunj,
New Delhi.
20. Chakarshekhar Kumar S/o Satiram,
R/o F-359, Mahipalpur, New Delhi.
21. Mithlesh Tiwari S/o Dev Raj Tiwari
R/o 26/27, Gali No. 2, Baljit Nagar,
New Delhi.
22. Ram Dev S/o Jugal Ram,
R/o A-85/52, Indira Gandhi Camp,
Phase-I, Naraina, New Delhi.
23. Radhey Shyam S/o Chaudhury Ram,
R/o RZ-76/238, P-Block, West Sagarpur,
New Delhi.
24. Niranjana Kumar Mishra S/o Sh. Chhedi Pal,
R/o 26/20, Indira Park, Gali No. 28,
Palam Colony, New Delhi.
25. Sukh Dayal, S/o Ram Prasad,
R/o H-9, Ambedkar Colony,
Satwari, Mehrauli, New Delhi.
26. Brahm Singh, S/o Ram Kishan
R/o 11/33, Akbar Road,
New Delhi.
27. Shiv Narain S/o Anup Lal Mehta
R/o DH-61-F, Hari Nagar,
New Delhi.
28. Vijay Pal Singh, S/o Chandra Pal,
R/o A-Block, Gali No. 22, Sangam Vihar,
New Delhi.

23A

29. Umapati Shukla S/o Aadi Nath Shukla,
R/o A-85, Indira Gandhi Camp,
Ind. Area, Naraina, New Delhi.
30. Shankar Rai S/o Chakori Rai,
R/o H.No. 144, Hari Nagar, Pili Khol,
New Delhi.

OM NO. 2041/2200 ✓

1. Ram Kumar (PC) S/o Sh. Siya Ram
R/o Subhash Camp, Badarpur,
New Delhi.
2. Vidhyadhar S/o Sh. Bholu Ram
R/o H.No. 178, Gopal Nagar,
Surakhpur Road, Nazafgarh,
New Delhi.
3. Jitender Kumar S/o Sh. Nawal Singh
R/o RZ-193 Block-E, Jai Vihar
Nazafgarh, New Delhi.
4. Radhey Shyam S/o Sh. Kalyan Prasad,
R/o H-557, J.J. Camp, Tigar, I,
New Delhi.
5. Kusesar Yadav S/o Sh. Ram Prasad Yadav,
R/o Z-I 134 Sangam Vihar,
New Delhi.
6. Kailash Chand S/o Sh. Ram Swaroop Singh,
R/o A-56, Old Palji (Pellangi Sarojani Nagar)
New Delhi.
7. Bhore Lal Singh, S/o Ram Balak Singh
R/o P-181, Village Palanji Village
Sarojani Nagar, New Delhi.
8. Haripal Singh S/o Sh. Kishori Lal
R/o 226, Sultanpur,
New Delhi-30.
9. Makhan Lal S/o Sh. Shishram
R/o Village Dariyapur Khurd
Post Office, Ujjawa, New Delhi-73.
10. Ramesh Singh S/o Sh. Naipal Singh
R/o 132, Rajpur Khurd
New Delhi.
11. Subhash Chand S/o Sh. Hari Saran Singh
R/o 2028 Ritajik M. Pur
New Delhi.
12. Ashok Pal S/o Sh. Sacha Ram
R/o 16A, 15B/I Sagar Pur
New Delhi.
13. Lal ram S/o Sh. Punni Bal
R/o-F-65, Katwaria Sarai,
New Delhi.

Kw

24

14. Raj Kumar Singh S/o Sh. Kapil Muni Singh
R/o RZ-90 Gali No.7, Kailash Puri Extn.
New Delhi.
15. Yunas Khan S/o Sh. Badal Khan
R/o F-34, Village Katwari Sarai
New Delhi.
16. Suraj Bhan Singh S/o Sh. Sube Singh
R/o 215/B, Raj Nagar, Pelam Colony
New Delhi.
17. Rajbir Sharma S/o Sh. Ram Prasad Sharma
R/o F-04, Lado Sarai New Delhi.
18. Uma Shannkar S/o Sh. Ram Prasad Sharma,
R/o F-51, Kishangarh Gaushala New Delhi
19. Deep Narayanan S/o Sh. Muneshwar
R/o Village-J.J. Colony Khayala New Delhi.
20. Subhash Chand S/o Sh. Sharvansingh
R/o B.510 Seva Nagar New Delhi.
21. Madan Lal S/o Sh. Gopi Ram
R/o C-2/323 Madan Geer New Delhi.
22. Prem Singh S/o Sh. Mohan Lal
R/o PF-254, Lado Sarai New Delhi.
23. Surender Kumar S/o Sh. Raja Ram,
R/o B-96/2 Mehroli New Delhi.

QA NO. 11891/72000

1. Rajesh Kumar, S/o Virender Singh
R/o C-49, Karwar Nagar
New Delhi
Sand No. 8953.
2. Sushil Kumar, S/o Om Prakash,
R/o C-5, 107 Chand Bagh,
Karwar Nagar,
New Delhi
Sand No. 6436
3. Banwari Lal, S/o Shri Patan
R/o III/308, Lodhi Road,
New Delhi
Sand No. 6133
4. Ram Surat Yadav, S/o Shri Hari Saran Yadav
R/o C-377, Sanjay Colony,
New Delhi
Sand No. 585
5. Sant Kumar S/o Siya Ram
R/o 605, DDA Flat
Badar Pur, New Delhi
Sand No. 8879

Kur



6. Satya Pal; S/o Shri Man Chand
R/o M-266, Asola, Fathapur Beri
Mehrauli, New Delhi.
Sand No. 6906.
7. Brahm Pal S/o Prem Raj
R/o M-248, Aya Nagar
Mehrauli, New Delhi
Sand No. 6923
8. Nathu Ram, S/o Keshar Ram
R/o C-1 819, Madan Giri
New Delhi.
Sand No. 6605.
9. Raj Bala W/o Sh. Raghubir Singh
R/o Chand Bagh Puspa Vihar,
New Delhi.

...Applicants.

(By Advocate: Sh. U. Srivastava)

VERSUS

Govt. of NCT of Delhi, through

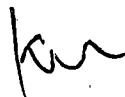
1. The Chief Secretary,
Govt. of NCT Delhi, 5 Sham Nath Marg,
New Delhi.
2. The Commandant General
Home Guard & Civil Defence
CTI Building, Raja Garden
New Delhi.
3. The Commandant
Delhi Home Guards, CTI Building,
Raja Garden,
New Delhi.

...Respondents.

(By Advocate: Sh. Ajay Gupta in OA-1754/2000
Sh. Ajesh Luthra in OA-2041/2000
Sh. Vijay Pandita in OA-1891/2001)

ORDER

By this common judgment I shall dispose of 3 OAs No. 1754/2000, 2041/2000 and 1891/2001. Since the claim in all these OAs is almost common and applicants are challenging the orders passed by the respondents whereby the respondents have restrained the applicants to continue to serve in the organisation either by way of written order or by verbal orders.



2. The facts common to all these OAs are that all these applicants had been recruited as a member of Home Guards under Rule 3 of the Delhi Home Guards Rules, 1959. Their tenure of posts was fixed for a period of 3 years as per Rule 8 of the Delhi Home Guard Rules (hereinafter called Rules). All the above applicants were recruited/enrolled on different dates after completion of requisite formalities for the said post. Accordingly, their tenure was fixed for different dates after expiry of 3 years terms from the date of recruitment.

3. Applicant further claim that they have also been issued various recommendation certificates from time to time. However, all of a sudden respondents issued orders of discharge of office to the applicants. Services of all these applicants have been disengaged in the garb of exercise of powers under the Rule 8. It is alleged that the impugned order cannot be sustained and are liable to be quashed because Rule 8 has not been observed properly. It is further stated that Rule 9 of the Rules provides that a member Home Guard can perform his duty upto the age of 60 years and these applicants' tenure has been extended from time to time though they have been granted different stand numbers. Thus abruptly disengaging the applicants without completion of their tenure is in violative of Rule 8 of the Home Guard Rules and is against the judgment given by the Tribunal in Full Bench. It is further submitted that Rule 8 provides that the term of office of a member Home Guard shall be 3 years and the appointment of any such member may at any time be terminated by the Commandant General/Commandant as the case may be before the expiry of the term of office by giving one month notice or without notice if such member is found medically unfit to continue as a member. But no such notice has been issued nor

for



any proper procedure has been followed. So it is submitted that the applicants are entitled at least to complete their term and the respondents cannot restrain them to perform their duties.

4. The respondents are contesting the OA. The respondents pleaded that the Tribunal has got no jurisdiction to entertain the present application as there is no relationship between the applicants and the respondents. Applicants are the volunteers who are called on at the time of emergency to assist the law and order enforcing agencies and is paid subsistence allowances and parade allowances for the period they perform the parade and training. The said payments is made out of contingency fund. There are no service conditions and the applicants were self employed at the time of enrolments. On the same line earlier petition was filed by such like applicants and that petition was dismissed by the Tribunal. It is also stated that the Hon'ble Supreme Court had already held that an employee under this system cannot be regularised and is not entitled to any relief. It is also submitted that the cases involving disengagement of the Home Guards the Full Bench of the Tribunal had followed Mansukh Lal Rawal's case. It is submitted that the competent authority Sh. L.S. Sandhu, Commandant Home Guards, Delhi is exercise of the powers conferred upon him under the Bombay Home Guards Act, 1947 as extended to the Union Territory of Delhi and Delhi Home Guards Rules, 1959 and as per the rules framed by Delhi Government under the Home Guards Act. It is stated that the Identity Card issued to the Home Guards do not give any extension of tenure which is being emphasised by the applicant. The same have been issued only for the purpose of identification and not for the purpose of employment. During

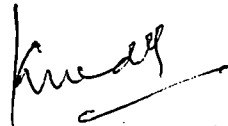
Km

the pendency of the OA the applicants also filed an MA in all these OAs seeking the disposal of the OA in terms of the judgment order dated 20.3.2002 passed in all similar matters of Home Guards. The MA is also opposed by the respondents but it is stated that the applicants in the case in question were discharged in March 1999 and October 1999 and at that time no policy in question was in existence. Thus, the applicants have made a deliberate attempt to mislead the Court.

5. I have heard the learned counsel for the parties and gone through the record. On perusal of the judgment referred in the MA and annexed alongwith the MA would show that as regards the objection of the respondents about the jurisdiction of the Tribunal I find that the point has been fully dealt with and the Tribunal had referred to the Full Bench judgment, which is based on Delhi High Court's judgment dated 26.5.99 in Mansukh Lal Rawal's case, which has to be followed. The Hon'ble High Court in various judgments had introduced fresh policy guidelines with regard to the Home Guards which was followed by framing of the policy named policy guidelines for enrolment/re-enrolment of the members of Home Guards of Delhi. Applicants are continuing to the extent of extension granted every 3 years and want time for the tenure to expire. The respondents have issued the impugned orders discharging the applicants in exercise of the power under Rule 8 of Delhi Home Guard Rules. According to the Rules if the respondents are satisfied that the applicants had committed any act which was detrimental to the good order etc. of the Home Guards Organisation their services could be terminated. But in the reply filed to the OA there is no mention that the respondents had found any act having been committed by the applicant which may be detrimental to the welfare as good order of the

h

organisation. The judgment in the OA relied upon by the applicant also note downs the decision in OA-270/2002 in case of Pawan Kumar which was disposed of on 5.3.2002 and after extensively quoting the said judgment the Tribunal reiterated that orders of discharge passed in the case of Pawan Kumar were quashed and set aside and in the OA relied upon by the applicant the Tribunal observed that the case of the applicants is squarely covered by the said judgment in favour of the applicants. In these cases also I find that the impugned orders have been issued without proper exercise of the powers and the applicants are being discharged from service without observing the conditions as enshrined in Rule 10. Thus, the impugned orders, whereby applicants are not allowed to perform their duties, are to be quashed and the respondents are further directed to allow the applicants to complete their tenure as per Delhi Home Guards Rules. No costs.


(KULDIP SINGH)
Member (J)

sd