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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2149 of 2000

New Delhi, this the 6th day of July, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

1. Ramesh Chand Sharma
S/o Late Shri Ram Kumar Sharma
r/o Village & P.O. Nangli Godha
Rewari (Haryana).
2. Sukh Pal Singh S/o Sh. Shiv Charan Singh
R/o Quarter No.211, Ward No.2 Mehrauli,
New Delhi-110 030.
3. Rajeev Kumar S/o Shri Ram Kishan
R/o A-97, Nathu Pura,
Delhi-110 009.
4. Ram Babu Chaudhary S/o Shri Ravindra Chaudhary
R/o C/o Shri Mahanand Jha, 14, Bara Khamba
Road,
New Delhi-110 001. -APPLICANTS

(By Advocate: Shri S.N. Jha)

Versus

1. Commissioner of Delhi Police
Delhi Police Head Quarter, MSO Building,
ITO,
New Delhi-110 001.
2. Joint Commissioner of Delhi Police
(Traffic)
1st Floor, Delhi Police Head Quarter
MSO Building, ITO New Delhi-110 001.
3. Additional Commissioner of Police
(Traffic)
5th Floor, Delhi Police Head Quarter,
MSO Building,
ITO,
New Delhi-110 001.
4. Deputy Commissioner of Police (Traffic)
(NDR) PS R.K. Puram, Sector-12,
New Delhi-110 021. -RESPONDENTS

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

This is a joint application filed by 4 applicants under Section 19 of the Administrative Tribunal's Act, 1985, whereby they are challenging the

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orders passed by respondents terminating their engagement as counter clerks.

2. Facts in brief are that the Delhi Police had been receiving a large number of complaints from the general public as they were being overcharged by the Taxi Drivers/TSR Drivers and in order to cope up with the problem, the Delhi Traffic Police introduced a pre-paid taxi fare system in the year 1986 which was first introduced at the Delhi Airport but was later extended to various markets, railway stations, ISBTs and Hospitals etc. As regard the functioning of the scheme was concerned, it was intended that the passenger who intend to avail the facility of this scheme will be required to disclose his destination to the pre-paid staff on duty and the list of scheduled fare would be displayed by the staff and the counter-clerk shall charge the amount of fare and in addition to Rs.2/- for baggage, Rs.2/- were being charged as service charges.

3. According to the Scheme staff was also required to be appointed for collecting fare charges and repayment of the same to the drivers who will ply taxis and TSRs. The applicants are those casual workers who had been appointed as counter clerks under the said scheme. Certain complaints were received against these persons and DCP after holding an enquiry, passed an order terminating the engagement of these applicants which has been assailed by the applicants in this case.

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4. In the grounds to assail the same the applicants have alleged that they had been working for last more than 9 years, 7 years, 6 years and 4 years respectively and the termination order has been passed arbitrarily, illegally, unconstitutional being violative of the norms of natural justice so it is stated that these orders are unlawful as no opportunity has been granted to them.

5. The respondents in their counter-affidavit have taken a preliminary objection that the applicants are not Government employees nor employees of Delhi Administration so they are not covered under the Administrative Tribunal's Act, 1985 so this Tribunal has no jurisdiction to decide the cases of the applicants.

6. Besides this the respondents have also pleaded that fair opportunity of hearing was given to them and the applicant's were heard by the DCP in the orderly room and only after giving proper opportunity of hearing, the impugned orders have been passed.

7. I have heard the learned counsel for the parties and gone through the records of the case.

8. As regards the jurisdiction of the Tribunal is concerned, the counsel for the respondents has referred to a scheme which has been annexed at page 31 of the OA itself by the applicants themselves. The scheme which is at Annexure 9 gives the details how the staff is to be appointed and how the staff is to be paid. It categorically says that the staff so engaged under the



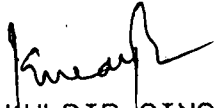
scheme has to be paid under the said scheme itself. Thus a perusal of the scheme makes it clear that the applicants were not appointed by the State Government or by the Central Government on a regular post as required but were appointed only under the said scheme and their salary/wages are being paid from the funds generated under the scheme itself. Thus I am of the considered opinion that the applicants do not hold any civil posts and they have been privately engaged under the scheme by the Delhi Traffic Police and once they are paid from the funds under the scheme and not from the Government funds, they cannot claim that they have any rights as a civil servant or as a Government servant so this Tribunal has no jurisdiction to try their cases.

9. Even on merits, the counsel for the respondents has referred to a judgment in the case of CWP No. 6500/2000 where one Duli Chand had assailed a similar order passed by the DCP terminating his services in a W.P. before Hon'ble High Court and the Hon'ble Delhi High Court was of the view that the proper opportunity was given to the applicant to defend his case and the Hon'ble High Court rejected the Writ Petition. LPA was taken against that order before the Division Bench. The Division Bench did not grant the relief in the LPA but upheld the order of the Single Bench of the Delhi High Court. On comparison of the orders passed against Duli Chand which was assailed before the Hon'ble High Court of Delhi and the orders which have been passed against the present applicants which are at Annexure A-1 to A-4, I find that all these applicants have been given an opportunity to defend, which is akin particularly to



as given to Shri Duli Chand and which order has been upheld by the Delhi High Court so I find that the order passed by the respondents cannot be interfered with on merits also.

10. In view of the above, nothing survives in the OA which is accordingly dismissed. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

/Rakesh