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Central Administrative Tribunal
Principal Bench

M.A.No.764/2002 in
O.A.No.2268/2000

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 4th day of June, 2002

1. Ram Pal
s/o Shri Suraj Bhan
r/o E-71, Amar Colony
Kamarudin Nagar
New Delhi.
2. Raja Ram
s/o Sh. Chunni Lal
r/o F-232, Gali No.83,
Mahabir Enclave
Uttam Nagar
New Delhi.
3. Chandra Bhushan
s/o Sh. Sripal Pandey
R/o RZ-26/24 Indira Park
New Delhi.
4. Robinson
s/o Sh. Jojef
r/o H.No.323, Church Gali
Fatehpur Beri
New Delhi - 30.
5. Satish Kumar
s/o Sh. Ranjeet Singh
r/o Vill.-Maidan Garhi
PO Mahrauli
H.No.232
New Delhi - 30.
6. Anil Kumar
s/o Sh. Dharm Singh
r/o H.No.348, Ward No.4
Mehrauli
New Delhi.
7. Suraj Bali
s/o Sh. Munna Lal
r/o O-46, Budh Vihar Phase-II
Kalu Colony
New Delhi.
8. Surender Kumar
s/o Sh. Jabeshi Ram
r/o H.No.772, Mangolpuri
Delhi.
9. Khusiyal
s/o Shhotteylal
r/o S-539, Mangol Puri
Delhi.

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10. Sri Ram
s/o Shri Itwari
r/o H.No.24, Massjid Modh
New Delhi.
11. Bani Singh
s/o Shri Mohan Singh
H.No.226, Sultan Puri
New Delhi.
12. Om Prakash
s/o Sh. Ram Prasad
r/o 7/217 Dakshin Puri
New Delhi - 62.
13. Jyoti Singh
s/o Sh. Hiralal Singh
r/o WZ-917/6, Pankha Road
Nangal
New Delhi.
14. Dhananjay Yadav
s/o Sh. Ram Dayal Yadav
r/o Vill-Narayana
New Delhi.
15. Shiv Kumar
s/o Sh. Manohar Lal
r/o R2-F-771/17, Raj Nagar II
Palam
New Delhi.

... Applicants

(By Advocate: Shri U.Srivastava)

Vs.

Govt. of NCT, Delhi
through

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

... Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard the learned counsel on either side.

2. Applicants, who are Home Guards with the respondents, before completion of their tenure of three years, respondents have dispensed with their services, by resorting their termination, which is contrary to the decision in OA 408/2000 Arvind Kumar & Others Vs. Govt. of NCT, Delhi, decided on 12.7.2000, which stood implemented by the respondents themselves. They claim the benefit of this decision wherein it has been held that if the tenure is not completed the respondents should take the Home Guards in engagement for the remaining unexpired tenure. It is also stated that the decision of the High Court in Man Sukh Lal Rawal & Others Vs. Union of India & Others, CWP No.4286/1997, decided on 26.5.1999 as well as Full Bench decision in Indel Singh Tomar & Others, OA No.1753/97 and connected cases, decided on 25.11.1999 have already been taken into consideration thereafter directions have been issued. In this background, it is contended that applicants cannot be meted out differential treatment which would be violative of Articles of 14 and 16 of the Constitution of India.

3. On the other hand, respondents by resorting to Rule 8 of the Delhi Home Guards Rules, 1959, contended that term of a member of the Home Guard shall be three years provided that he may be terminated by the Commandant General or Commandant before the expiry of the tenure by following the due process of law by giving one month's notice or it could be resorted to when the member is medically unfit. It is stated that this provision would come into operation only if the term of the member of Home

Guard has been curtailed by the respondents and would not apply to the extended term like in the present case where the applicants who have been working on extended tenure. Learned counsel has referred cases of OA 1169/98 (Umed Singh Vs. Govt. of NCT, Delhi, decided on 16.10.1998) and OA 2323/98 with OA No.2486/98, Daya Nidhi Vs. Govt. of NCT of Delhi & Others decided on 18.12.1998 to substantiate his plea that after the expiry of term of three years the applicants had been continued in service would not entitle them to any additional benefits and Rule 8 would have have no application, it is stated that the aforesaid decisions of the Division Bench had been upheld by the High Court on 6.1.1999, in CW No.44/99. In this view of the matter by further placing reliance on a decision of the Division Bench In OA 640/98 in Shiv Prasad Vs. Govt.⁴ of NCT of Delhi, it is contended that relying the decision upon the High Court, it has been concluded that Home Guards could not claim re-engagement or regularisation after their initial three years period of engagement was over and they cannot resort to Rule 8 in case of their termination before the expiry of their term. By referring to the decision of the Single Bench in Arvind Kumar's case supra relied upon by applicants, it is stated that in view of the decision of the High Court upholding the decision of the Division Bench could not be given go by and the claim of the applicants cannot be countenanced and they are not entitled for engagement for the unexpired tenure as directed in Arvind Kumar's case.

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4. I have carefully considered the rival contentions of both the parties and perused the material on record. The resort of the applicants to Rule 8 and the decision in Man Sukh Lal Rawal's case supra, CWP No.4886/97 would be no avail to applicants as before the High Court the question of regularisation has been turned down by the Court and as regards their terms, it has been observed that provisions of Rule 8 of Home Guards Rules ibid would be applicable in case the tenure is curtailed and that refers to only the initial tenure as there is no finding by the High Court that this provision would also apply in case the Home Guards are working on the extended tenure. In this view of the matter, the High Court decision would not be applicable to the case of the applicants.

5. As regards Arvind Kumar's case supra wherein relying upon the Man Sukh Lal Rawal's case, respondents have been directed to, applicants therein, to complete their unexpired tenure the same would not hold the filed in view of the decision of the Division Benche cases upheld by the High Court wherein it is categorically observed that no additional benefits would be given in case of an additional term to Home Guard. The provisions of Rule 8 shall apply only in case the Home Guard is on initial tenure of three years.

6. In this view of the matter and having regard to the reasons recorded above, the OA is bereft of merit and is accordingly dismissed. No costs.

7. MA 764/2002 has been filed by the applicants for disposal of the OA. As the OA has been dismissed, MA 764/2002 has become infructuous and is accordingly disposed of.

S. Rajm
(Shanker Raju)
Member(J)

/rao/