

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 1580 of 2000

New Delhi, this the 12th day of February, 2001

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

1. Shri Raj Pal Singh, SPC  
S/o Shri Hira Singh  
R/o D-84-B, Jagjit Nagar,  
New Usman Pura, Delhi-53.
  2. Shri Ram Narain, HG  
S/o Shri Sarjoo Prasad  
R/o 2-A, /36, Geeta Colony,  
Near Mata Mindir, Gandhi Nagar,  
Delhi-110 031.
  3. Shri Ram Bishan Singh, SPC  
S/o Shri Juthan Singh  
R/o E-91/55 Block-10,  
Geeta Colony, Near Budh Bazar,  
Delhi-110 031.
  4. Shri Mahesh Singh  
S/o Shri Janak Singh  
R/o A-294, Gali No.8,  
Ganwari Extension,  
Delhi-110 053.
  5. Shri Gajendra Pratap Singh  
S/o Shri Ram Raj Singh  
R/o 10/2 Geeta Colony,  
Delhi-110 031.
  6. Shri Gyan Prakash Dubey  
S/o Shri Shankar Dayal  
R/o C-315/5, Gali NO.54,  
Near Usman Pur  
Delhi-53.
  7. Shri Panna Lal  
S/o Shri Kedar Nath  
R/o D-2/421, Nand Nagri,  
Delhi-93.
  8. Shri Brij Behari  
S/o Shri Lalu  
R/o B-2/88 Nand Nagri,  
Delhi-93.
- APPLICANTS

(By Advocate: Shri J.C. Madan)

Versus

1. Union of India  
through: Secretary, Ministry of Home Affairs,  
North Block,  
New Delhi.
  2. The Government of NCT of Delhi  
Through: Chief Secretary  
5, Sham Nath Marg,  
Delhi-110 054.
- 12

13

3. The Director General,  
Home Guards,  
CTI Complex,  
Raja Garden,  
New Delhi-110 027.

-RESPONDENTS

(By Advocate: Shri Rajinder Pandita)

O R D E R

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

This is a joint application filed by 8 applicants whereby they have challenged the respondents action in terminating their services as Home Guards without any prior written notice. Thus it is stated that the same is arbitrary, discriminatory, wilful and mala fide.

2. It is further stated that the applicant Nos. 1 to 3 and 7 to 8 have been given termination order whereas applicant Nos. 4 to 6 have been given oral order terminating their services, while persons junior to the applicants and other outsiders have been retained or have been re-engaged, so the applicants have made the following prayers:-

(a) To allow this OA with cost in favour of the applicants.

(b) To pass an order quashing and setting aside the impugned orders and issue directions to respondents to reinstate the applicants with all consequential benefits.

Kr

14

(c) To pass an order or issue appropriate direction to the respondents to accord temporary status to the applicants as Home Guards, to put an end to uncertain condition of employment and to give them regular pay and allowance as are paid to regular employees.

(d) To direct the respondents to consider the applicants for Group 'C' or 'D' post in any department under Government of NCT of Delhi or Public undertaking in preference to outsiders.

3. The facts in brief, as alleged, are that the applicants were appointed as Home Guards by respondents on various dates and they were being paid remuneration between Rs.1600/- to Rs.1800/- per month.

4. They further claims that they are public servants within the meaning of Section 21 of the Indian Penal Code thus they are claiming protection of Article 301 of the Constitution of India and they claim that since the respondents have terminated their services in violation of the rules, so they should be reinstated.

5. Besides that, the applicants have also prayed that the respondents be directed to consider their cases for appointment in Group 'C' or 'D' post in any department under the Government of NCT of Delhi or Public Undertaking in preference to juniors and outsiders.

fr

6. Respondents in their reply have pleaded that the application is barred by principles of Section 19, 20 and 21 of the Administrative Tribunal's Act, 1985, and, therefore, the same is liable to be dismissed.

7. Besides that the respondents have pleaded that this Tribunal has no jurisdiction to entertain and try the case of Home Guards as there is no relationship between the applicants and the respondents. Rather the applicants are volunteers who are called upon at the time of emergency to assist the law and order enforcing agencies and is paid subsistence allowances and parade allowance for the period they perform the parade and training. The said payment is made out of contingency fund. Moreover, there are no service conditions and that the applicants were self employed at the time of enrolment and they have always been attending the duties as volunteers and stated that there is no relationship of master and servant. Since there is no relationship of master and servant so the Tribunal has no jurisdiction to try this OA.

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

9. Dr. J.C. Madan appearing for the applicants submitted that the respondent No.2 had issued a circular dated 10.9.99 (Annexure A-2) whereby the Government of NCT has recommended to all the departments under the Government of NCT to give preference for appointment to Group 'C' and 'D' posts to the eligible Home Guards and Civil Defence volunteers who have rendered at least 3

ku

years service in the organisation and are trained in "basic" and "Refresher" course in Home Guards and Civil Defence provided those volunteers fulfil the essential qualifications of age, education and physical standard etc. laid down for recruitment to those posts. They may also be employed as security personnel/guards in Government departments, Government aided institutions, autonomous bodies and other Government agencies, in place of engaging private security agencies/guards. Referring to this circular, the counsel for the applicant submitted that the departments of the NCT of Delhi are not complying with these directions, at least suitable directions be issued to the respondents so that the respondents ensure that these directions be complied by this department and the applicants are given preference in any Group "C" or "D" posts.

10. On the contrary Shri Rajinder Pandita appearing for the respondents referred to various judgments of this Tribunal wherein it has been held that the Home Guards volunteers cannot be treated at par with Government servants and do not enjoy the protection of Article 311 at par with Government servants and as such the respondents submitted that there does not exist any relationship of master and servant between the respondents and the applicants. The applicants are mere volunteers who are to assist the law enforcing agencies during the emergency and they are not governed by any statutory rules and conditions. Hence, this court has no jurisdiction and as such no direction is required for.

h

18

11. The counsel for the respondents has also relied upon judgment in OA 493/2000 given by another Co-ordinate Single Bench and also on the judgment in OA 2938/99. He further relied on the judgment in OA 852/2000. All these judgments in one voice say that the Home Guards have no right to approach the court to seek quashing of the order of discharge as they are not civil servants. From a perusal of these judgments I find that the grievance of the Home Guards cannot be redressed by this Court because they are not civil servants, they are mere volunteers.

12. As far as the circular Annexure A-2 is concerned, I may mention that in the judgment in OA 1974/20000 as well as in OA No.493/2000 suitable suggestions have already been made by this Court to the Government of NCT to re-emphasise the provisions of the aforesaid policy circular and issue a fresh mandate for careful and speedy compliance by the various departments of the Government, the local bodies, the autonomous bodies, aided Institutions etc. I ~~also~~ also reiterate the same.

13. In view of the foregoing discussion, the OA has no merits and the same is dismissed. No costs.

  
( KULDIP SINGH )  
MEMBER(JUDL)

/Rakesh