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**CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH**

**Original Application No.498/2004**

**New Delhi, this the 15<sup>th</sup> day of July, 2005**

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman  
Hon'ble Mr. S.K.Naik, Member (A)**

Prem Singh  
S/o Sh. Mahesha Singh  
R/o H. No.37, Gali No.3  
'D' Block, Dayalpur, Delhi. ... Applicant

**(By Advocate: Sh. Yogesh Sharma)**

Versus

1. NCT of Delhi through  
The Chief Secretary  
New Sectt. New Delhi.
2. The Commissioner of Police  
Delhi Police, Police Head Quarter  
IP Estate, New Delhi.
3. The Station House Officer  
P.S. Shahdara, Delhi. ... Respondents

**(By Advocate: Sh. Ajesh Luthra)**

**ORDER**

**By Mr. Justice V.S. Aggarwal:**

The short question that comes up for consideration in the facts of the present case is as to whether this Tribunal has jurisdiction to entertain the application or not.

2. The relevant facts are that the applicant by virtue of the present application seeks that the action of the respondents in not considering his case for regularization is illegal and arbitrary. He prays that a direction should be issued to the respondents to consider his claim for regularization and he should be given the



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minimum wages till his regularization or he should be granted temporary status.

3. The applicant had been engaged as a Mess Boy in the Police Station, Shahdra. He is working there since 1986. His grievance is that he has not been considered for regularization though he has put in 240 days of service. It is in this backdrop that the above reliefs are being claimed.

4. The application has been contested. Respondents plead that the applicant was engaged to work as Mess Boy in the Mess of Police Station, Shahdra against the remuneration of Rs.500 per month by the then Officer-Incharge of the Police Station. He received his payment from the Mess Fund for the days he worked but was not paid when he did not work. Thereafter, the remuneration has been increased to Rs.1200/- besides breakfast, lunch, dinner and residential facility. The mess is running on 'no profit no loss' basis. The Government of National Capital Territory of Delhi does not provide any grant to run the Mess. The cost of eatable items, i.e., vegetables, pulses, breads/chapaties etc. is calculated on the basis of purchase of raw material, LPG Cylinder and labour, etc. The applicant is being paid from the Mess Fund which comes within the sales of the eatables from the Mess members. The Mess is even not registered. It is a purely a private regimental body comprising the police personnel of P.S. Shahdara. It is running on the basis of contribution/diet allowances of the police personnel. The applicant was never engaged as a Government servant or as an employee of Delhi Police.

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5. It is on these facts contended that this Tribunal has no jurisdiction to entertain the matter because the applicant does not hold any civil post.

6. On behalf of the applicant, strong reliance was being placed on the decision of this Tribunal in the case of **Rajinder Singh & Others V. Union of India & Others**, OA 969/1999, decided on 10.2.2000. Therein certain persons had been working in Delhi Police Canteen. They relied upon the instructions of the Department of Personnel & Training dated 27.1.1997. This Tribunal taking into consideration the instructions of the DoPT held that the respondents should take further action in accordance with the relevant rules and instructions and regularize the services of the applicants.

7. Reliance further has been placed on another Single Bench decision of this Tribunal in the case of **Pramod Kumar V. NCT of Delhi & Others**, OA 2043/2003, decided on 20.1.2004. In the cited case also, the applicant therein was seeking regularization. He had earlier filed OA 1453/2001 which was disposed of by the Tribunal directing that the applicant should be given an opportunity in the open selection. Subsequently, he filed OA referred to above and again reliance was being placed on the instructions of DoPT. The order was set aside and the respondents were directed to consider the claim of the applicant for regularization.

8. On the contrary, the Division Bench of this Tribunal in the case of **Smt. Dharam Wati V. The Director of Education, Delhi**

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**& Others**, OA No.2406/1994, decided on 19.3.1996 was concerned with similar question. The applicant therein was working as Domestic Science Helper on part-time basis. He was not being considered for regularisation. He was being paid out of pupils fund. This Tribunal held that it has no jurisdiction and the application was dismissed.

9. Even in the case of **Shri Satish Kumar V. Commissioner of Police & Others**, OA No.486/2002, decided on 20.2.2003, the Satish Kumar, whose services were terminated, had come up before this Tribunal for quashing of the impugned order. He had been appointed by the Deputy Commissioner of Police but was paid from the funds of Delhi Police. This Tribunal held that the Tribunal has no jurisdiction to entertain the application because payment was being made from the private funds.

10. From the above said, it is clear that the two decisions on which the applicant placed reliance are totally distinguishable. Therein the question whether the Tribunal has the jurisdiction to entertain the application or not had not been considered. In that event, the applicant's learned counsel relied upon a Full Bench decision of the **Himachal Pradesh High Court** in the case of **Arti Gupta V. State of Himachal Pradesh and Others**, 1997(2) ATJ 135. The Full Bench of the said Court held that where matters relate to recruitment or concerning recruitment, the Administrative Tribunal has jurisdiction to deal with such matters before the actual appointment of any person to a civil post. We do not

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dispute the said proposition but the question that craves for answer was not the subject matter of controversy.

11. Section 3 (q) of the Administrative Tribunals Act, 1985 defines service matters in the following words:

“(q) “service matters”, in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India, or, as the case may be, of any corporation [or society] owned or controlled by the Government, as respects-

- (i) remuneration (including allowances), pension and other retirement benefits;
- (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
- (iii) leave of any kind;
- (iv) disciplinary matters; or
- (v) any other matter whatsoever;”

Further more, Section 14 unfolds itself as under:

**“14. Jurisdiction, powers and authority of the Central Administrative Tribunal –** (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court), in relation to –

- (a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;





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- (b) all service matters concerning-
- (i) a member of any All-India Service; or
  - (ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or
  - (iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government;

(c) all service matters pertaining to a service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation or other body, at the disposal of the Central Government for such appointment.

3(Explanation - For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a union territory.)

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations owned or controlled by Government, not being a local or other authority or corporation controlled or owned by a State Government:

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Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of or different categories under any class of, local or other authorities or corporations.

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation, all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court) in relation to -

- (a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation; and
- (b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation and pertaining to the services of such person in connection with such affairs."

12. From the aforesaid, it is clear that jurisdiction of Courts except jurisdiction of the High Courts & Supreme Court had been excluded. But a conjoint reading of Section 3 (q) read with Section 14 of the Administrative Tribunals Act, 1985 leaves no doubt that the concerned person must hold a civil post or connected with the affairs of the Union.

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13. In the present case, as is shown, is not rebutted satisfactorily. The applicant is being paid from the funds contributed by the employees at the said Police Station. He is not being paid from any fund of the Government and thus it must be held that neither he holds a civil post nor it has anything to do with the affairs of the Union.

14. This question directly came up for consideration before the Supreme Court in the case of **UNION OF INDIA & OTHERS v. CHOTELAL AND ORS.**, JT 1998 (8) SC 497. The question for consideration before the Supreme Court was as to whether Dhobis appointed to wash the clothes of the cadets at NDA, Khadakwasla and who were being paid from the Regimental Fund, were holders of Civil Post or not. This Tribunal had held that it has the jurisdiction to entertain the matter. However, the Supreme Court had set aside the order of the Tribunal and held:

"3. In view of the rival contentions raised, the most crucial question that arises for consideration is what is the nature of the post against which the Dhobis get their appointment for discharging the duties of washing clothes of the cadets? From the terms and conditions of the letter of appointment issued to such Dhobis it is crystal clear that the appointments cannot be held to be one against any civil post. On the other hand it clearly indicates that the appointment is purely private payable out of Regimental Fund. Initially these Dhobis were being paid at a particular rate per cadet on the basis of actual number of cadets a Dhobi is required to serve, but later on a monthly salary, no doubt, has been fixed for being paid to such Dhobis. The terms of appointment, no doubt, vest certain control over such Dhobis on the Commandant of the Academy but nonetheless such control cannot impress the post of Dhobis with the character of a Civil post. It is also

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
borne out from the record that each cadet is granted a monthly Dhobi allowance and the said allowance is put into a fund called 'Regimental Fund' under the management of Commanding Officer of the institution. ...."

Thereafter, it was further held:

"6. In view of the character of the Regimental Funds, as discussed above, we have no hesitation to come to the conclusion that the said fund cannot be held to the public fund by any stretch of imagination and the Dhobis paid out of such fund cannot be held to be holders of civil post within the Ministry of Defence so as to confer jurisdiction of the Central Administrative Tribunal to issue direction relating to their service conditions. It is of course true that the Commanding Officer exercises some control over such Dhobis but on that score alone it cannot be concluded that the posts are civil posts and that payments to the holders of such post is made from out of the Consolidated Fund of India or of any public fund under the control of Ministry of Defence."

15. Identical is the position herein. The applicant is being paid not from the Government fund but from the contribution of the Police Officers in the Mess at P.S.Shahdra. He, therefore, cannot be held to be holder of any civil post. It is purely a private employment. He is not discharging any duties relating to the affairs of the Union or Delhi Administration.

16. Resultantly, it must follow that this Tribunal does not have jurisdiction to entertain the application. On this short ground, therefore, the application fails and is accordingly dismissed.

  
(S.K.Naik)  
Member (A)

/NSN/

  
(V.S.Aggarwal)  
Chairman